



Residential Homes Act 1980

CHAPTER 7

ARRANGEMENT OF SECTIONS

Registration etc. of residential homes

Section

1. Homes to which Act applies.
2. Registration of homes.
3. Refusal or cancellation of registration.
4. Appeals against refusal or cancellation.
5. Conduct of homes.
6. Inspection of homes.
7. Prosecutions etc.

Provision of meals and recreation for old people

8. Provision of meals and recreation.

Supplemental

9. Regulations.
10. Interpretation etc.
11. Transitional provisions, consequential amendments and repeals.
12. Short title, commencement and extent.

SCHEDULES:

- Schedule 1—Consequential amendments.
Schedule 2—Enactments repealed.

ELIZABETH II



Residential Homes Act 1980

1980 CHAPTER 7

An Act to consolidate certain enactments relating to the registration, inspection and conduct of residential homes for disabled, old or mentally disordered persons and to the provision by district councils of meals and recreation for old people. [20th March 1980]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Registration etc. of residential homes

1.—(1) The homes to which this Act applies are disabled persons' or old persons' homes and residential homes for mentally disordered persons. Homes to which Act applies.

(2) In this Act "disabled persons' or old persons' home" means 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 persons or old persons or both, but does not include—

- (a) any hospital within the meaning of section 128(1) of the National Health Service Act 1977 which is maintained in pursuance of an Act of Parliament; 1977 c. 49.
- (b) any nursing home or mental nursing home within the meaning of the Nursing Homes Act 1975; 1975 c. 37.
- (c) any voluntary home within the meaning of the Child Care Act 1980; 1980 c. 5.

- (d) any other premises being premises managed by a government department or local authority, or any other authority or body constituted by special Act of Parliament or incorporated by Royal Charter ; or
- (e) any pre-1948 Act establishment exempted from the operation of this Act by or under regulations of the Secretary of State made after consultation with the Charity Commissioners ;

1948 c. 29. and in paragraph (e) above “ pre-1948 Act establishment ” means an establishment which was being carried on immediately before the coming into operation of section 37 of the National Assistance Act 1948, but no establishment so carried on shall be exempted under that paragraph as respects any premises in which it was not being carried on immediately before the coming into operation of that section.

(3) In this Act “ residential home for mentally disordered persons ” means 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 mentally disordered persons, but does not include—

- 1959 c. 72. (a) any hospital within the meaning of section 147(1) of the Mental Health Act 1959 ;
- 1975 c. 37. (b) any mental nursing home within the meaning of the Nursing Homes Act 1975 ; or
- (c) any other premises managed by a government department or provided by a local authority.

Registration
of homes.

2.—(1) If any person carries on a home to which this Act applies without being registered under this Act in respect of that home, he shall be liable on summary conviction to a fine not exceeding £500 or, in the case of a second or subsequent offence, to imprisonment for a term not exceeding three months or a fine not exceeding £500 or both.

(2) An application for registration under this Act shall be made to the registration authority and shall be accompanied by a fee of £1.

(3) Subject to the provisions of this section and section 3 below, the registration authority shall, on receipt of an application under subsection (2) above, register the applicant in respect of the home named in the application and issue to him a certificate of registration.

(4) It shall be a condition of the registration of any person in respect of a residential home for mentally disordered persons

that the number of persons kept at any one time in the home (excluding persons carrying on or employed in the home and their families) does not exceed such number as may be specified in the certificate of registration; and without prejudice to the foregoing provision, the registration may be effected subject to such conditions (to be specified in the certificate) as the registration authority consider appropriate for regulating the age, sex or other category of persons who may be received in the home.

(5) If any condition imposed by or under subsection (4) above is not complied with, the person carrying on the home shall be liable on summary conviction to a fine not exceeding £500.

(6) The certificate of registration under this Act issued in respect of any home shall be kept affixed in a conspicuous place in the home; and if default is made in complying with this subsection the person carrying on the home shall be liable on summary conviction to a fine not exceeding £25 and to a further fine not exceeding £2 for each day on which the offence continues after conviction.

(7) Notwithstanding anything in subsection (1) above, where the person registered under this Act in respect of a home dies, his executor or his widow or any other member of his family may for a period not exceeding four weeks from his death, or such longer period as the registration authority may sanction, carry on the home without being registered in respect of the home.

(8) The registers kept for the purposes of this Act shall be available for inspection at all reasonable times, and the person inspecting any such register shall be entitled to make copies of entries in the register on payment of such fee (if any), not exceeding 5p for each entry, as the registration authority may determine.

(9) In this Act "registration authority", in relation to any home to which this Act applies, means the council which for the purposes of the Local Authority Social Services Act 1970 is the local authority for the area in which the home is situated; and the local authorities for the purposes of that Act are, at the passing of this Act, the councils of non-metropolitan counties, metropolitan districts and London boroughs and the Common Council of the City of London.

3.—(1) The registration authority may by order refuse to register an applicant if they are satisfied—

Refusal or
cancellation of
registration.

(a) that he or any person employed or proposed to be employed by him in the management of the home or any part of the home is not a fit person, whether by

reason of age or otherwise, to carry on or to be so employed at a home of such a description as the home named in the application ;

- (b) that for reasons connected with the situation, construction, state of repair, accommodation, staffing or equipment, the home or any premises used in connection with the home are not fit to be used for a home of such a description as aforesaid ; or
- (c) that the way in which it is proposed to conduct the home is such as not to provide services or facilities reasonably required by persons resorting to such a home.

(2) The registration authority may by order at any time cancel the registration of a person in respect of a home—

- (a) on any ground which would entitle them to refuse an application for the registration of that person in respect of that home ;
- (b) in the case of a disabled persons' or old persons' home, on the ground that that person has been convicted of an offence against this Act or against any regulations made under it in respect of that or any other disabled persons' or old persons' home or that any other person has been convicted of such an offence in respect of that home ; or
- (c) in the case of a residential home for mentally disordered persons, on the ground that that person has been convicted of an offence against this Act or against any regulations made under it in respect of that or any other residential home for mentally disordered persons, that any other person has been convicted of such an offence in respect of that home or that any condition imposed by or under section 2(4) above in respect of that home has not been complied with.

(3) Not less than 14 days before making an order refusing an application for registration or an order cancelling any registration, the registration authority shall send by post to the applicant or to the person registered, as the case may be, notice of their intention to make such an order.

(4) Every such notice shall state the grounds on which the authority intend to make the order and shall contain an intimation that if within 14 days after the receipt of the notice the applicant or person registered, as the case may be, informs the authority in writing of his desire to show cause in person or by a representative, why the order should not be made, the authority will before making the order afford him an opportunity to do so.

(5) If the registration authority after giving the applicant or person registered, as the case may be, an opportunity of being

heard by them, decide to refuse the application for registration, or to cancel the registration, they shall make an order to that effect and send by post to the applicant or person registered, as the case may be,—

- (a) a copy of the order ; and
- (b) a statement of the right of appeal to a magistrates' court for which provision is made by section 4(1) below and the time within which such an appeal may be brought.

4.—(1) A person aggrieved by an order under section 3 above refusing an application for registration or cancelling any registration may appeal to a magistrates' court having jurisdiction in the place where the home in question is situated ; and the cancellation of any registration shall not take effect until the expiration of the time within which an appeal may be brought under this subsection or, where such an appeal is brought, before the determination of the appeal. Appeals against refusal or cancellation.

(2) The procedure on an appeal to a magistrates' court under subsection (1) above shall be by way of complaint for an order, and the Magistrates' Courts Act 1952 shall apply to the proceedings. 1952 c. 55.

(3) The time within which any such appeal may be brought shall be 21 days from the date on which the copy of the registration authority's order was served upon the person desiring to appeal, and for the purpose of this subsection the making of the complaint shall be deemed to be the bringing of the appeal.

(4) A person aggrieved by an order, determination or other decision of a magistrates' court under subsection (1) above may appeal to the Crown Court.

(5) Where on an appeal under this section a court reverses any decision of a registration authority, it shall be the duty of the authority to give effect to the order of the court and, in particular, to issue any certificate and to make any necessary entry in any register.

5.—(1) The Secretary of State may make regulations as to the conduct of homes to which this Act applies, and in particular— Conduct of homes.

- (a) as to the facilities and services to be provided in such homes ;
- (b) for empowering the registration authority to limit the number of persons or persons of any description who may be received into any disabled persons' or old persons' home and for enabling registration of any such home to be made subject to the condition that persons shall not be received in the home in excess of

the number fixed for the home in accordance with the regulations ; and

(c) as to the records to be kept and notices to be given in respect of persons received in residential homes for mentally disordered persons.

(2) The registers to be kept by registration authorities for the purposes of this Act shall be in such form, and contain such particulars, as may be provided by regulations under this section, and such regulations may make provision as to the information to be supplied on any application for registration under this Act.

(3) Regulations under this section may provide that a contravention of or failure to comply with any specified provision of the regulations shall be an offence against the regulations ; and any person guilty of an offence against the regulations shall be liable on summary conviction to a fine not exceeding £500.

Inspection of homes.

6.—(1) Any person authorised in that behalf by the Secretary of State may at all reasonable times enter and inspect any premises which are used, or which that person has reasonable cause to believe to be used, for the purposes of a home to which this Act applies.

(2) Any person authorised in that behalf by the registration authority may at all reasonable times enter and inspect any premises in the area of the authority which are used, or which that person has reasonable cause to believe to be used, for those purposes.

(3) The powers of inspection conferred by subsections (1) and (2) above, in their application to residential homes for mentally disordered persons, shall include power to inspect any records required to be kept in accordance with regulations made under section 5(1)(c) above.

(4) A person who proposes to exercise any power of entry or inspection conferred by this section shall if so required produce some duly authenticated document showing his authority to exercise the power.

(5) Any person who obstructs the exercise of any such power shall be liable on summary conviction to a fine not exceeding £500.

Prosecutions etc.

7.—(1) Offences against this Act or any regulations made under it may be prosecuted by the registration authority.

(2) Where an offence against this Act or any regulations made under it has been committed by a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of

the body corporate, or was purporting to act in any such capacity, shall also be guilty of the offence unless he proves—

- (a) that it was committed without his consent or connivance; and
- (b) that he exercised all such diligence to prevent its commission as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

Provision of meals and recreation for old people

8.—(1) A district council shall have power to make such arrangements as they may from time to time determine for providing meals and recreation for old people in their homes or elsewhere, and may employ as their agent for the purposes of this subsection any voluntary organisation whose activities consist in or include the provision of meals or recreation for old people.

(2) A district council may recover from persons availing themselves of any service provided under subsection (1) above such charges (if any) as, having regard to the cost of the service, the council may determine, whether generally or in the circumstances of any particular case.

(3) A district council may assist any such organisation as is referred to in subsection (1) above to provide meals or recreation for old people by contributing to the funds of the organisation, by permitting them to use premises belonging to the council on such terms as may be agreed, and by making available furniture, vehicles or equipment (whether by way of gift or loan or otherwise) and the services of any staff who are employed by the council in connection with the premises or other things which they permit the organisation to use.

(4) District councils shall exercise their functions under this section (including any discretion conferred on them under this section) in accordance with the provisions of any regulations of the Secretary of State made for the purposes of this subsection; and without prejudice to the generality of the foregoing provision, regulations under this subsection—

- (a) may provide for conferring on officers of the Secretary of State authorised under the regulations such powers of inspection as may be prescribed in relation to the exercise of functions under this section by or by arrangement with or on behalf of district councils; and
- (b) may make provision with respect to the qualifications of officers employed by district councils for the purposes of this section or by voluntary organisations acting under arrangements with or on behalf of district councils for those purposes.

(5) In this section "voluntary organisation" means a body the activities of which are carried on otherwise than for profit, but does not include any public or local authority.

Supplemental

Regulations.

9. Any power of the Secretary of State to make regulations under this Act shall be exercisable by statutory instrument; and any statutory instrument containing regulations under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Interpretation
etc.

10.—(1) In this Act, unless the context otherwise requires,—

"blind person" means a person so blind as to be unable to perform any work for which eyesight is essential;

"disabled person" means a person who is blind, deaf or dumb or who is substantially and permanently handicapped by illness, injury or congenital deformity or any other disability for the time being prescribed for the purposes of section 29(1) of the National Assistance Act 1948;

1948 c. 29.

"disabled persons' or old persons' home" has the meaning assigned to it by section 1(2) above;

"functions" includes powers and duties;

"mentally disordered person" means a person who is suffering from any mental disorder within the meaning of the Mental Health Act 1959;

1959 c. 72.

"prescribed" means prescribed by regulations under this Act;

"registration authority" has the meaning assigned to it by section 2(9) above;

"residential home for mentally disordered persons" has the meaning assigned to it by section 1(3) above.

(2) 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 direct.

Transitional
provisions,
consequential
amendments
and repeals.

11.—(1) Where a period of time specified in an enactment repealed by this Act is current at the commencement of this Act, this Act shall have effect as if the corresponding provision of this Act had been in force when that period began to run.

(2) For the purposes of determining the punishment which may be imposed on a person in respect of the commission by him of an offence under any provision of this Act, an offence

committed by that person under the corresponding enactment repealed by this Act shall be deemed to have been committed under that provision.

(3) Where an offence, for the continuance of which a penalty was provided, has been committed under any enactment repealed by this Act, proceedings may be taken under this Act in respect of the continuance of the offence after the commencement of this Act, in the same manner as if the offence had been committed under the corresponding provision of this Act.

(4) The enactments mentioned in Schedule 1 to this Act shall have effect subject to the amendments specified in that Schedule, being amendments consequential on the provisions of this Act.

(5) The enactments mentioned in Schedule 2 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(6) Nothing in this section shall be taken as prejudicing the operation of sections 16 and 17 of the Interpretation Act 1978 1978 c. 30. (effect of repeals).

12.—(1) This Act may be cited as the Residential Homes Act 1980. Short title, commencement and extent.

(2) This Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint.

(3) This Act does not extend to Scotland or Northern Ireland.

SCHEDULES

Section 11(4).

SCHEDULE 1

CONSEQUENTIAL AMENDMENTS

1948 c. 29

The National Assistance Act 1948

1. In section 41(2) of the National Assistance Act 1948 (registration of charities for disabled persons) for the words "section 37 of this Act" there shall be substituted the words "the Residential Homes Act 1980".

1959 c. 72.

The Mental Health Act 1959

2.—(1) In section 8(3) of the Mental Health Act 1959 (functions of welfare authorities) for the words from "disabled persons' homes" onwards there shall be substituted the words "charities for disabled persons".

(2) In section 128(1) of that Act (sexual intercourse with patients) for the words "Part III of this Act" there shall be substituted the words "the Residential Homes Act 1980".

1966 c. 42.

The Local Government Act 1966

3. In Part II of Schedule 3 to the Local Government Act 1966 (variation of fees for licences, registration etc.), for paragraph 31 there shall be substituted the following paragraph—

"31. Section 2(2) of the Residential Homes Act 1980".

1970 c. 42.

The Local Authority Social Services Act 1970

4.—(1) In Schedule 1 to the Local Authority Social Services Act 1970 (which specifies the enactments conferring functions assigned to the social services committee of a local authority), for the entry relating to sections 37 to 41 of the National Assistance Act 1948 there shall be substituted the following entry—

"Section 41 Charities for disabled."

(2) At the end of that Schedule there shall be inserted the following entry—

"Residential Homes Act 1980 (c. 7) Sections 1 to 7	Registration of disabled or old persons' homes and residential homes for mentally disordered persons."
---	--

1976 c. 36.

The Adoption Act 1976

5. In section 32(3) of the Adoption Act 1976 (meaning of "protected child") for the words "section 19 of the Mental Health Act 1959" there shall be substituted the words "section 1(3) of the Residential Homes Act 1980".

SCHEDULE 2
ENACTMENTS REPEALED

Section 11(5).

Chapter	Short title	Extent of repeal
11 & 12 Geo. 6. c. 29.	The National Assistance Act 1948.	Section 31. In section 33(1), the proviso. Sections 37 to 40.
7 & 8 Eliz. 2. c. 72.	The Mental Health Act 1959.	Sections 19 to 21. Section 23(1). In Schedule 7, in Part II, the entry relating to section 37 of the National Assistance Act 1948.
8 & 9 Eliz. 2. c. 61.	The Mental Health (Scotland) Act 1960.	In Schedule 4, the entry relating to section 37 of the National Assistance Act 1948.
10 & 11 Eliz. 2. c. 24.	The National Assistance Act 1948 (Amendment) Act 1962.	Section 1(1).
1968 c. 46.	The Health Services and Public Health Act 1968.	Section 45(10).
1972 c. 70.	The Local Government Act 1972.	In Schedule 23, paragraph 2(8).
1975 c. 37.	The Nursing Homes Act 1975.	In Schedule 1, paragraph 6.
1977 c. 45.	The Criminal Law Act 1977.	In Schedule 6, the entries relating to sections 37(1) and 40(3) of the National Assistance Act 1948 and the entry relating to section 20(2) of the Mental Health Act 1959.

PRODUCED IN THE UK FOR HER MAJESTY'S STATIONERY OFFICE
W.J. SHARP
Controller and Chief Executive of Her Majesty's Stationery Office
and Queen's Printer of Acts of Parliament
LONDON: PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE

c. 7

Residential Homes Act 1980

LONDON: PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE

(50640)

ISBN 0 10 540780 1