



Children's Homes Act 1982

CHAPTER 20

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ELIZABETH II



Children's Homes Act 1982

1982 CHAPTER 20

An Act to provide for the registration, inspection and conduct of certain homes and other institutions for the accommodation of children in the care of local authorities; and for connected purposes. [28th June 1982]

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:—

1.—(1) For the purposes of this Act a children's home is a Children's home or other institution providing accommodation and maintenance wholly or mainly for children, other than an institution excluded by subsection (2) below. homes to which the Act applies.

(2) The institutions excluded by this subsection are—

- (a) community homes provided under section 32 of the Child Care Act 1980 ; 1980 c. 5.
- (b) voluntary homes as defined by section 56 of that Act ;
- (c) homes registered under the Nursing Homes Act 1975 or the Residential Homes Act 1980 ; 1975 c. 37.
1980 c. 7.
- (d) any health service hospital within the meaning of the National Health Service Act 1977 and any accommodation provided by a local authority and used as a hospital by or on behalf of the Secretary of State ; 1977 c. 49.

(e) homes and other premises managed by a government department or provided by a local authority; and

1944 c. 31. (f) subject to subsection (3) below, any school within the meaning of the Education Act 1944.

(3) An independent school within the meaning of that Act is not excluded by subsection (2) above (and is accordingly a children's home for the purposes of this Act) if the school provides accommodation for fifty children or less and is not for the time being approved by the Secretary of State under section 11(3)(a) of the Education Act 1981.

1981 c. 60.

Children in care not to be accommodated in unregistered children's homes.

2.—(1) A local authority shall not place a child in their care in a children's home, or allow such a child to remain in a children's home, unless it is a home for the time being registered under this Act (in this Act referred to as a "registered home").

(2) Any person who carries on a children's home which is not a registered home but in which are accommodated one or more children in the care of a local authority shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.

Registration of children's homes.

3.—(1) An application for the registration of a children's home under this Act shall be made by the person carrying on, or intending to carry on, the home and shall be made to the local authority for the area in which the home is or is to be situated.

(2) An application for registration shall be made in the prescribed manner and shall be accompanied by—

(a) such particulars as may be prescribed; and

(b) such reasonable fee as the local authority may determine.

(3) If a local authority are satisfied that a children's home in respect of which an application has been made in accordance with this section complies or (as the case may be) will comply—

(a) with such requirements as may be prescribed, and

(b) with such other requirements (if any) as appear to the authority to be appropriate,

the authority shall grant the application, either unconditionally or subject to conditions imposed under section 4 below, and shall give to the applicant notice that the home has been registered by the authority under this Act as from such date as may be specified in the notice.

(4) If the local authority are not satisfied as mentioned in subsection (3) above, they shall refuse the application, and shall give to the applicant notice of their refusal of the application and of the grounds on which they have refused it.

(5) For the purposes of this Act an application under this section which has not been granted or refused by a local authority within the period of twelve months beginning with the date when the application is served on them shall be deemed to have been refused by them, and the applicant shall be deemed to have been notified of their refusal at the end of that period.

(6) Where an application for the registration of a children's home is made to a local authority in accordance with this section, the home shall, as from the date when the application is served on the authority, be treated for the purposes of this Act as if it were registered thereunder—

(a) until the home becomes registered under subsection (3) above, or

(b) if the authority refuse the application, until the expiry of a period of twenty-eight days beginning with the date when the applicant is notified of their refusal.

(7) Where a school to which section 1(3) above applies is registered under subsection (3) above it shall not cease to be a children's home registered under this Act by reason only of a subsequent change in the number of children for whom it provides accommodation.

(8) Where an application for the registration of a home is refused, no further application for the registration of the home may be made under this section within the period of six months beginning with the date when the applicant is notified of the refusal.

4.—(1) A local authority may grant an application for the registration of a children's home subject to such conditions relating to the conduct of the home as they think fit. Conditions imposed on registration.

(2) Where a local authority grant an application subject to conditions they shall, at the time of giving notice to the applicant of the registration of the home, also give notice of those conditions; but the conditions shall not take effect before the expiry of the period of twenty-eight days beginning with the date on which the applicant is so notified.

(3) If any condition imposed under this section is not complied with, the person carrying on the home shall be guilty of

an offence and liable on summary conviction to a fine not exceeding £500.

Annual review
of registration.

5.—(1) A local authority which have registered a children's home (in this Act referred to, in relation to the home, as "the responsible authority") shall at the end of the period of twelve months beginning with the date of registration, and annually thereafter, review the registration of the home for the purpose of determining whether the registration should continue in force or be cancelled under section 6(2) below.

(2) If on any such annual review the responsible authority are satisfied that a home is being carried on in accordance with the relevant requirements they shall determine that, subject to subsection (3) below, the registration of the home should continue in force.

(3) The responsible authority shall give to the person carrying on the home notice of their determination under subsection (2) above, and the notice shall require him to pay to the authority in respect of the carrying out of the annual review in question such reasonable fee as the authority may determine; and it shall be a condition of the home's continued registration that the fee is so paid before the expiry of the period of twenty-eight days beginning with the date on which the notice is received by the person carrying on the home.

(4) In this section "the relevant requirements" means any requirements of this Act and of any regulations made under section 8 below, and any conditions imposed under section 4 above.

Cancellation of
registration.

6.—(1) The person carrying on a registered home may at any time make an application, in such manner and including such particulars as may be prescribed, for the cancellation by the responsible authority of the registration of the home; and, if the authority are satisfied either—

(a) that no child in the care of a local authority is for the time being accommodated in the home, or

(b) in the case of a school registered by virtue of section 1(3) above, that it is no longer a school to which that provision applies,

the authority shall give to the person carrying on the home notice that the registration of the home has been cancelled by the authority as from the date of the notice.

(2) If on any annual review under section 5 above, or at any other time, it appears to the responsible authority that a registered home is being carried on otherwise than in accordance

with the relevant requirements, they may determine that the registration of the home should be cancelled.

(3) The responsible authority may at any time determine that the registration of a home should be cancelled on the ground that the person carrying on the home has been convicted of an offence under this Act or any regulations made under section 8 below, or on the ground that any other person has been convicted of such an offence in relation to the home.

(4) Where a local authority have determined under subsection (2) or (3) above that the registration of a home should be cancelled, they shall give to the person carrying on the home either—

- (a) a notice that they propose to cancel the registration on such date as may be specified in the notice, being a date at least twenty-eight days after the date of the notice, or
- (b) a notice that they propose to cancel it on such a date as aforesaid unless the person carrying on the home has previously complied, to their satisfaction, with any relevant requirement specified in the notice,

and any such notice shall state the grounds on which the authority propose to cancel the registration of the home; and the authority shall accordingly cancel its registration on the date specified in the notice unless, in the case of a notice under paragraph (b), there has been such previous compliance as is mentioned in that paragraph.

(5) Where the registration of a home is cancelled under subsection (2) or (3) above, no application for the registration of the home shall be made under section 3 above within the period of six months beginning with the date of cancellation.

(6) In this section "the relevant requirements" has the same meaning as in section 5 above.

7.—(1) Where a person is notified by a local authority that Appeals. they have refused his application for registration, have imposed any condition or propose to cancel the registration of a home, he may, within the period of twenty-eight days beginning with the date on which he is so notified, appeal against that refusal, condition or proposal by a notice given to the local authority and requiring them to refer that matter to an appeal tribunal constituted in accordance with Schedule 3 to the Child Care 1980 c. 5. Act 1980.

(2) Subsections (4) to (6) of section 58 of that Act (procedure and expenses of tribunals) shall, with the necessary modifications, apply in relation to appeal tribunals constituted in accordance with that Schedule for the purposes of this section as they apply in relation to appeal tribunals so constituted for the purposes of section 58.

(3) Where an appeal is brought under this section against the refusal of an application for registration, then—

- (a) the home shall continue to be treated for the purposes of this Act as if it were registered thereunder until such time as the appeal is determined or abandoned (in this section referred to, in relation to any appeal under this section, as “the relevant time”); and
- (b) the period of six months mentioned in section 3(8) above shall, instead of beginning as there provided, begin at the relevant time;

and the appeal tribunal may on any such appeal either confirm the refusal of the application or direct that the home shall be registered.

(4) Where an appeal is brought under this section against the imposition of a condition, that condition shall not take effect before the relevant time; and the appeal tribunal may on any such appeal either confirm the imposition of the condition or direct that it shall not apply or that some other condition or conditions specified by the tribunal shall apply instead.

(5) Where an appeal is brought under this section against a proposal to cancel the registration of any home—

- (a) the cancellation shall not take effect before the relevant time; and
- (b) the period of six months mentioned in section 6(5) above shall, instead of beginning as there provided, begin at the relevant time;

and the appeal tribunal may on any such appeal either confirm the proposal to cancel the registration of the home or direct that it shall not be cancelled.

(6) A local authority shall comply with any directions given by an appeal tribunal under this section.

8.—(1) The Secretary of State may make regulations as to the registration of children's homes, as to the conduct of registered homes, and for securing the welfare of the children in registered homes.

(2) Regulations under this section may in particular—

- (a) make provision as to the carrying out of annual reviews under section 5 above;

- (b) impose requirements as to the accommodation, staff and equipment to be provided in registered homes and as to the arrangements for medical (including psychiatric) and dental care which are to be made for protecting the health of children in such homes ;
- (c) make provision for children accommodated in registered homes to receive a religious upbringing appropriate to the religious persuasion to which they belong ;
- (d) authorise the responsible authority to limit the number of children who may be accommodated in any particular registered home ;
- (e) impose requirements as to the keeping of records and giving of notices in respect of such children ;
- (f) require notice to be given to the responsible authority of any change of the person carrying on a registered home or of the premises used by such a home.

(3) Regulations under this section may make different provision for different cases.

(4) 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 such an offence shall be liable on summary conviction to a fine not exceeding £500.

(5) Any regulations under this section shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

9.—(1) Any person authorised in that behalf by the responsible authority may at all reasonable times enter and inspect any registered home or any premises which he has reasonable cause to believe are being used as part of such a home. Inspection of registered homes.

(2) Any person inspecting a home under this section may in particular—

- (a) inspect any child accommodated in the home ; and
- (b) require the production of, and inspect, any records required to be kept in accordance with regulations made under section 8 above.

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

(4) Any person who without reasonable cause obstructs any person in the exercise of any power conferred by this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding £500.

1933 c. 12.

(5) A refusal to allow any such person as is referred to in subsection (1) above to enter a registered home or such premises as are there mentioned shall be deemed, for the purposes of section 40 of the Children and Young Persons Act 1933 (search warrants), to be a reasonable cause to suspect that a child in the home or premises is being neglected in a manner likely to cause him unnecessary suffering or injury to health.

Persons disqualified from carrying on, or being employed in, registered homes.

1975 c. 21.

10.—(1) This section applies to any person who has been convicted of any offence specified in Schedule 1 to the Children and Young Persons Act 1933 or in Schedule 1 to the Criminal Procedure (Scotland) Act 1975, or has been placed on probation or discharged absolutely or conditionally for any such offence.

(2) A person to whom this section applies shall not carry on or be otherwise concerned in the management of, or have any financial interest in, a registered home unless he has—

(a) disclosed to the responsible authority the fact that he has been convicted or otherwise dealt with as mentioned in subsection (1) above, and

(b) obtained their written consent.

(3) A person shall not employ in a registered home a person to whom this section applies unless he, the employer, has—

(a) disclosed to the responsible authority the fact that that person has been convicted or otherwise dealt with as mentioned in subsection (1) above, and

(b) obtained their written consent.

(4) Any person who—

(a) contravenes subsection (2) above, or

(b) knowingly employs a person to whom this section applies in contravention of subsection (3) above,

shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £1,000 or to both.

Provisions as to offences.

11.—(1) A local authority may institute proceedings for an offence under this Act or any regulations made under it.

(2) Where any such offence committed by a body corporate is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(3) Where a person is charged with an offence under section 2(2) or 4(3) above or under regulations made under section 8 above, it shall be a defence to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence by himself or any person under his control.

12.—(1) Any notice required to be given under this Act— Notices.

(a) shall be given in writing ; and

(b) may be given by post.

(2) Where any such notice is required to be given to the person carrying on a children's home and more than one person is for the time being carrying it on, the notice may be given to any one of them ; and for the purposes of section 7 of the Interpretation Act 1978 (references to "service by post") a letter enclosing a notice under this Act to any such person or persons shall be deemed to be properly addressed if it is addressed to him or them at the home. a 1978 c. 30.

13. There shall be paid out of money provided by Parliament any increase attributable to this Act in the sums so payable under any other Act. Expenses.

14.—(1) In this Act— Interpretation.

" child " means a person under the age of 18 years and any person who has attained that age and is the subject of a care order within the meaning of the Children and Young Persons Act 1969 ; 1969 c. 54.

" children's home " shall be construed in accordance with section 1 above ;

" local authority " means, except in section 1(2)(d) and (e) above, the council of a non-metropolitan county, metropolitan district or London borough, or the Common Council of the City of London, and in those provisions means a local authority within the meaning of the Local Government Act 1972 ; 1972 c. 70.

" prescribed " means prescribed by regulations made under section 8 above ;

" registered home " means a children's home registered under this Act, and " registration " means registration thereunder ;

" responsible authority ", in relation to a registered home, means the local authority which registered it under this Act.

(2) References in this Act to a child in the care of a local authority are references to a child in the care of a local authority under or by virtue of any enactment, but do not include any child who is for the time being boarded out in accordance with

1980 c. 5. any regulations made or having effect as if made under section 22 of the Child Care Act 1980.

Consequential provisions.
1970 c. 42.

15.—(1) At the end of Schedule 1 to the Local Authority Social Services Act 1970 (list of enactments conferring functions assigned to the social services committee of a local authority) there shall be added—

“ Children’s Homes Act Registration of children’s homes ; supervision of registered homes.”

1971 c. 62.

(2) In Part I of Schedule 1 to the Tribunals and Inquiries Act 1971 (tribunals under direct supervision of Council on Tribunals), for paragraph 4 there shall be substituted—

“ Children’s homes.

4. Appeal tribunals constituted in accordance with Schedule 3 to the Child Care Act 1980 (c.5) for the purposes of section 58 of that Act or of section 7 of the Children’s Homes Act 1982 (c. 20).”

(3) In section 21(1) of the Child Care Act 1980 (methods of providing for accommodation and maintenance of children in care), at the end of paragraph (c) there shall be added “ or

(d) by maintaining him in a children’s home registered under the Children’s Homes Act 1982 ; ”.

(4) Paragraph 33 of Schedule 5 to the Child Care Act 1980 is hereby repealed.

Citation, commencement and extent.

16.—(1) This Act may be cited as the Children’s Homes Act 1982.

(2) This Act shall come into force on such day as the Secretary of State may appoint by an order made by statutory instrument, and different days may be appointed for, or for different purposes of, different provisions of this Act.

(3) This Act extends to England and Wales only.

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