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## SCHEDULES

### SCHEDULE 4

#### MANAGEMENT AND CONDUCT OF COMMUNITY HOMES

##### PART I

##### 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 <sup>F1</sup> . . . home which is designated as a controlled or assisted community home.
- (2) Sub-paragraph (3) applies where two or more <sup>F1</sup> . . . 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 <sup>F1</sup> . . . 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 <sup>F1</sup> . . . home which is designated as a controlled community home, two-thirds of the managers; and
  - (b) in the case of a <sup>F1</sup> . . . 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 <sup>F2</sup> . . . 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 <sup>F1</sup> . . . 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 <sup>F1</sup> . . . 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

- II** 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)

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