

Status: Point in time view as at 04/11/1996.

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SCHEDULES

SCHEDULE 5

VOLUNTARY HOMES AND VOLUNTARY ORGANISATIONS

PART I

REGISTRATION OF VOLUNTARY HOMES

General

- 1 (1) An application for registration under this paragraph shall—
 - (a) be made by the persons intending to carry on the home to which the application relates; and
 - (b) be made in such manner, and be accompanied by such particulars, as the Secretary of State may prescribe.
- (2) On an application duly made under sub-paragraph (1) the Secretary of State may—
 - (a) grant or refuse the application, as he thinks fit; or
 - (b) grant the application subject to such conditions as he considers appropriate.
- (3) The Secretary of State may from time to time—
 - (a) vary any condition for the time being in force with respect to a voluntary home by virtue of this paragraph; or
 - (b) impose an additional condition,either on the application of the person carrying on the home or without such an application.
- (4) Where at any time it appears to the Secretary of State that the conduct of any voluntary home—
 - (a) is not in accordance with regulations made under paragraph 7; or
 - (b) is otherwise unsatisfactory,he may cancel the registration of the home and remove it from the register.
- (5) Any person who, without reasonable excuse, carries on a voluntary home in contravention of—
 - (a) section 60; or
 - (b) a condition to which the registration of the home is for the time being subject by virtue of this Part,shall be guilty of an offence.
- (6) Any person guilty of such an offence shall be liable on summary conviction to a fine not exceeding—

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- (a) level 5 on the standard scale, if his offence is under sub-paragraph (5)(a); or
 - (b) level 4, if it is under sub-paragraph (5)(b).
- (7) Where the Secretary of State registers a home under this paragraph, or cancels the registration of a home, he shall notify the local authority within whose area the home is situated.

Commencement Information

II Sch. 5 Pt. I para. 1 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Procedure

- 2 (1) Where—
- (a) a person applies for registration of a voluntary home; and
 - (b) the Secretary of State proposes to grant his application,
- the Secretary of State shall give him written notice of his proposal and of the conditions subject to which he proposes to grant the application.
- (2) The Secretary of State need not give notice if he proposes to grant the application subject only to conditions which—
- (a) the applicant specified in the application; or
 - (b) the Secretary of State and the applicant have subsequently agreed.
- (3) Where the Secretary of State proposes to refuse such an application he shall give notice of his proposal to the applicant.
- (4) The Secretary of State shall give any person carrying on a voluntary home notice of a proposal to—
- (a) cancel the registration of the home;
 - (b) vary any condition for the time being in force with respect to the home by virtue of paragraph 1; or
 - (c) impose any additional condition.
- (5) A notice under this paragraph shall give the Secretary of State's reasons for his proposal.

Commencement Information

I2 Sch. 5 Pt. I para. 2 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Right to make representations

- 3 (1) A notice under paragraph 2 shall state that within 14 days of service of the notice any person on whom it is served may (in writing) require the Secretary of State to give him an opportunity to make representations to the Secretary of State concerning the matter.

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- (2) Where a notice has been served under paragraph 2, the Secretary of State shall not determine the matter until either—
- (a) any person on whom the notice was served has made representations to him concerning the matter; or
 - (b) the period during which any such person could have required the Secretary of State to give him an opportunity to make representations has elapsed without the Secretary of State being required to give such an opportunity; or
 - (c) the conditions specified in sub-paragraph (3) are satisfied.
- (3) The conditions are that—
- (a) a person on whom the notice was served has required the Secretary of State to give him an opportunity to make representations to the Secretary of State;
 - (b) the Secretary of State has allowed him a reasonable period to make his representations; and
 - (c) he has failed to make them within that period.
- (4) The representations may be made, at the option of the person making them, either in writing or orally.
- (5) If he informs the Secretary of State that he desires to make oral representations, the Secretary of State shall give him an opportunity of appearing before, and of being heard by, a person appointed by the Secretary of State.

Commencement Information

I3 Sch. 5 Pt. I para. 3 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Decision of Secretary of State

- 4 (1) If the Secretary of State decides to adopt the proposal, he shall serve notice in writing of his decision on any person on whom he was required to serve notice of his proposal.
- (2) A notice under this paragraph shall be accompanied by a notice explaining the right of appeal conferred by paragraph 5.
- (3) A decision of the Secretary of State, other than a decision to grant an application for registration subject only to such conditions as are mentioned in paragraph 2(2) or to refuse an application for registration, shall not take effect—
- (a) if no appeal is brought, until the end of the period of 28 days referred to in paragraph 5(3); and
 - (b) if an appeal is brought, until it is determined or abandoned.

Commencement Information

I4 Sch. 5 Pt. I para. 4 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

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Appeals

- 5
- (1) An appeal against a decision of the Secretary of State under Part VII shall lie to a Registered Homes Tribunal.
 - (2) An appeal shall be brought by notice in writing given to the Secretary of State.
 - (3) No appeal may be brought by a person more than 28 days after service on him of notice of the decision.
 - (4) On an appeal, the Tribunal may confirm the Secretary of State's decision or direct that it shall not have effect.
 - (5) A Tribunal shall also have power on an appeal to—
 - (a) vary any condition for the time being in force by virtue of Part VII with respect to the home to which the appeal relates;
 - (b) direct that any such condition shall cease to have effect; or
 - (c) direct that any such condition as it thinks fit shall have effect with respect to the home.

Commencement Information

I5 Sch. 5 Pt. I para. 5 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Notification of particulars with respect to voluntary homes

- 6
- (1) It shall be the duty of the person in charge of any voluntary home established after the commencement of this Act to send to the Secretary of State within three months from the establishment of the home such particulars with respect to the home as the Secretary of State may prescribe.
 - (2) It shall be the duty of the person in charge of any voluntary home (whether established before or after the commencement of this Act) to send to the Secretary of State such particulars with respect to the home as may be prescribed.
 - (3) The particulars must be sent—
 - (a) in the case of a home established before the commencement of this Act, in every year, or
 - (b) in the case of a home established after the commencement of this Act, in every year subsequent to the year in which particulars are sent under sub-paragraph (1),
 by such date as the Secretary of State may prescribe.
 - (4) Where the Secretary of State by regulations varies the particulars which are to be sent to him under sub-paragraph (1) or (2) by the person in charge of a voluntary home—
 - (a) that person shall send to the Secretary of State the prescribed particulars within three months from the date of the making of the regulations;
 - (b) where any such home was established before, but not more than three months before, the making of the regulations, compliance with paragraph (a) shall be sufficient compliance with the requirement of sub-paragraph (1) to send

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the prescribed particulars within three months from the establishment of the home;

- (c) in the year in which the particulars are varied, compliance with paragraph (a) by the person in charge of any voluntary home shall be sufficient compliance with the requirement of sub-paragraph (2) to send the prescribed particulars before the prescribed date in that year.

(5) If the person in charge of a voluntary home fails, without reasonable excuse, to comply with any of the requirements of this paragraph he shall be guilty of an offence.

(6) Any person guilty of such an offence shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Commencement Information

I6 Sch. 5 Pt. 1 para. 6 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

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