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## SCHEDULES

### SCHEDULE 4

#### MINOR AND CONSEQUENTIAL AMENDMENTS

##### *Children Act 1989 (c.41)*

- 14 (1) The 1989 Act shall be amended as follows.
- (2) In section 19 (review of provision of day care, child minding etc.)—
- (a) in subsection (1)(c), for “section 71(1)(b)” there shall be substituted “ Part XA ”; and
  - (b) in subsection (5), for the definition of “relevant establishment” there shall be substituted—
    - ““relevant establishment” means—
    - (a) in relation to Scotland, any establishment which is mentioned in paragraphs 3 and 4 of Schedule 9 (establishments exempt from the registration requirements which apply in relation to the provision of day care in Scotland); and
    - (b) in relation to England and Wales, any establishment which is mentioned in paragraphs 1 and 2 of Schedule 9A (establishments exempt from the registration requirements which apply in relation to the provision of day care in England and Wales);”.
- (3) In section 23 (provision of accommodation and maintenance by local authority for children whom they are looking after)—
- (a) in subsection (2), for paragraphs (b) to (e) there shall be substituted—
    - “(aa) maintaining him in an appropriate children’s home;”;
  - (b) after subsection (2) there shall be inserted—
    - “(2A) Where under subsection (2)(aa) a local authority maintains a child in a home provided, equipped and maintained by the Secretary of State under section 82(5), it shall do so on such terms as the Secretary of State may from time to time determine.”;
- and
- (c) after subsection (9) there shall be inserted—
    - “(10) In this Act—
    - “appropriate children’s home” means a children’s home in respect of which a person is registered under Part II of the Care Standards Act 2000; and
    - “children’s home” has the same meaning as in that Act.”

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- [<sup>F1</sup>(4) In section 24 (advice and assistance for certain children) <sup>F2</sup>. . .—
- (a) in subsections (2)(c) and (12)(a), for “registered” there shall be substituted “ private ”; and
  - (b) in subsections (2)(d)(ii) and (12)(c), for “residential care home, nursing home or mental nursing home” there shall be substituted “ care home or independent hospital ”.]
- (5) . . . . .
- <sup>F3</sup>(6) . . . . .
- (7) In section 51(1) (refuges for children at risk), for “registered” there shall be substituted “ private ”.
- (8) In section 59 (provision of accommodation by voluntary organisations)—
- (a) in subsection (1), for paragraphs (b) to (e) there shall be substituted—  
“(aa) maintaining him in an appropriate children’s home;”;
  - and
  - (b) after that subsection there shall be inserted—  
“(1A) Where under subsection (1)(aa) a local authority maintains a child in a home provided, equipped and maintained by the Secretary of State under section 82(5), it shall do so on such terms as the Secretary of State may from time to time determine.”
- (9) In section 60 (registration and regulation of voluntary homes)—
- (a) for the sidenote there shall be substituted “ Voluntary homes. ”; and
  - (b) for subsection (3) there shall be substituted—  
“(3) In this Act “voluntary home” means a children’s home which is carried on by a voluntary organisation but does not include a community home.”
- (10) In section 62 (duties of local authorities in relation to children provided with accommodation by voluntary organisations)—
- (a) in subsection (6)(c), for “paragraph 7 of Schedule 5” there shall be substituted “ section 22 of the Care Standards Act 2000 ”; and
  - (b) after subsection (9) there shall be inserted—  
“(10) This section does not apply in relation to any voluntary organisation which is a school.”
- (11) In section 63 (children not to be cared for and accommodated in unregistered children’s homes)—
- (a) for the sidenote there is substituted “ Private children’s homes etc. ”;
  - (b) in subsection (11), after “to” there shall be inserted “ private ”; and
  - (c) in subsection (12), after “treated” there shall be inserted “ , for the purposes of this Act and the Care Standards Act 2000, ”.
- (12) In section 64 (welfare of children in children’s homes), in subsections (1) and (4), before “children’s home” there shall be inserted “ private ”.

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(13) In section 65 (persons disqualified from carrying on, or being employed in, children’s homes)—

- (a) in subsections (1) and (2), for “the responsible authority” and “their” there shall be substituted “ the appropriate authority ” and “ its ” respectively;
- (b) in subsection (3), for the words from “an” to “they” there shall be substituted “ the appropriate authority refuses to give its consent under this section, it ”;
- (c) for subsection (3)(b) there shall be substituted—
  - “(b) the applicant’s right to appeal under section 65A against the refusal to the Tribunal established under section 9 of the <sup>M1</sup>Protection of Children Act 1999”;

and

(d) after subsection (5) there shall be inserted—

“(6) In this section and section 65A “appropriate authority” means—

- (a) in relation to England, the National Care Standards Commission; and
- (b) in relation to Wales, the National Assembly for Wales.”

(14) After section 65 there is inserted—

**“65A Appeal against refusal of authority to give consent under section 65.**

- (1) An appeal against a decision of an appropriate authority under section 65 shall lie to the Tribunal established under section 9 of the <sup>M2</sup>Protection of Children Act 1999.
- (2) On an appeal the Tribunal may confirm the authority’s decision or direct it to give the consent in question.”

(15) In section 66 (privately fostered children)—

- (a) in subsection (1)(a) after “accommodation” there shall be inserted “ in their own home ”; and
- (b) after subsection (4) there shall be inserted—

“(4A) The Secretary of State may by regulations make provision as to the circumstances in which a person who provides accommodation to a child is, or is not, to be treated as providing him with accommodation in the person’s own home.”

(16) In section 80 (inspection of children’s homes etc by persons authorised by Secretary of State)—

- (a) in subsections (1)(a) and (5)(c), before “children’s” there shall be inserted “ private ”;
- (b) in subsection (1)(i), after “71(1)(b)” there shall be added “ or with respect to which a person is registered for providing day care under Part XA ”;
- (c) for subsection (1)(j) there shall be substituted—
  - “(j) care home or independent hospital used to accommodate children;”

and

(d) in subsection (5), after paragraph (h) there shall be inserted—

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- “(hh) person who is the occupier of any premises—
- (i) in which any person required to be registered for child minding under Part XA acts as a child minder (within the meaning of that Part); or
  - (ii) with respect to which a person is required to be registered under that Part for providing day care;”.
- (17) In section 81(1) (inquiries)—
- (a) in paragraph (d), after “a” there shall be inserted “ private ”; and
  - (b) in paragraph (e), for “a residential care home, nursing home or mental nursing home” there shall be substituted “ a care home or independent hospital ”.
- (18) In section 82(6) (financial support by Secretary of State), in the definition of “child care training”, for “residential care home, nursing home or mental nursing home” there shall be substituted “ care home or independent hospital ”.
- (19) In section 83 (research and returns of information), in subsections (1)(c), (2)(c) and (3)(a)(ii), for “residential care home, nursing home or mental nursing home” there shall be substituted “ care home or independent hospital ”.
- (20) In section 86—
- (a) for the sidenote there shall be substituted “ Children accommodated in care homes or independent hospitals. ”; and
  - (b) in subsections (1) and (5), for “residential care home, nursing home or mental nursing home” there shall be substituted “ care home or independent hospital ”.
- (21) For the sidenote to section 87 (welfare of children accommodated in independent schools) there shall be substituted “ Welfare of children in boarding schools and colleges. ”.
- (22) In section 102(6)(a) (power of constable to assist in exercise of certain powers to search for children or inspect premises), after “76,” there shall be inserted “ 79U, ”.
- (23) In section 105 (interpretation)—
- (a) in subsection (1)—
    - (i) after the definition of “adoption agency” there shall be inserted—
 

““appropriate children’s home” has the meaning given by section 23;”
    - (ii) after the definition of “bank holiday” there shall be inserted—
 

““care home” has the same meaning as in the Care Standards Act 2000;”
    - (iii) for the definition of “children’s home” there shall be substituted—
 

““children’s home” has the meaning given by section 23;”
    - (iv) in the definition of “day care”, after “care” there shall be inserted “ (except in Part XA) ”;
    - (v) in the definition of “hospital”, after “hospital” there shall be inserted “ (except in Schedule 9A) ”;
    - (vi) after the definition of “income-based jobseeker’s allowance” there shall be inserted—

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““independent hospital” has the same meaning as in the Care Standards Act 2000;”

and

(vii) after the definition of “prescribed” there shall be inserted—

““private children’s home” means a children’s home in respect of which a person is registered under Part II of the Care Standards Act 2000 which is not a community home or a voluntary home;”;

and

(b) after subsection (5) there shall be inserted—

“(5A) References in this Act to a child minder shall be construed—

(a) in relation to Scotland, in accordance with section 71;

(b) in relation to England and Wales, in accordance with section 79A.”.

(24) In Schedule 3 (supervision orders), in paragraphs 4(2)(c)(ii) and 5(2)(c), for “or mental nursing home” there shall be substituted “, independent hospital or care home”.

(25) In Schedule 6 (registered children’s homes)—

(a) in the heading, for “Registered Children’s Homes” there shall be substituted “Private Children’s Homes”; and

(b) in paragraph 10(1)(a), for “registered” there shall be substituted “private”.

(26) In paragraph 5(1) of Schedule 7 (foster parents: limit on number of foster children), after “treated” there shall be inserted “, for the purposes of this Act and the Care Standards Act 2000”.

(27) In Schedule 8 (privately fostered children)—

(a) in paragraph 2, sub-paragraph (1)(b) shall cease to have effect, and in sub-paragraph (2), for “(1)(b)” there shall be substituted “(1)(c)”; and

(b) in paragraph 9(1), for “2(1)(d)” there shall be substituted “2(1)(c) and (d)”, and at the end there shall be inserted—

“But this sub-paragraph does not apply to a school which is an appropriate children’s home.”.

(28) For paragraph 2(1)(f) of Schedule 8 (privately fostered children) there shall be substituted—

“(f) in any care home or independent hospital;”.

(29) In paragraph 4(1) of Schedule 9 (child minding and day care for young children)—

(a) for paragraphs (a) to (c) there shall be substituted—

“(aa) an appropriate children’s home;”

and

(b) for paragraph (d) there shall be substituted—

“(d) a care home;”.

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### Textual Amendments

- F1** Sch. 4 para. 14(4) repealed (E.) (1.10.2001) by 2000 c. 35, s. 4(2); S.I. 2001/2878, art. 2
- F2** Words in Sch. 4 para. 14(4) repealed (30.11.2000) by 2000 c. 35, s. 7(5)(a)
- F3** Sch. 4 para. 14(5)(6) repealed (30.11.2000) by 2000 c. 35, s. 7(5)(b)

### Commencement Information

- I1** Sch. 4 para. 14 partly in force; Sch. 4 para. 14 not in force at Royal Assent see s. 122; Sch. 4 para. 14(15) in force for E. at 1.1.2001 by S.I. 2000/2795, art. 2(2)(b) (with art. 3); Sch. 4 para. 14(15) in force for W. at 28.2.2001 by S.I. 2001/139, arts. 1(3), 2(2)(b) (with transitional provisions in art. 3); Sch. 4 para. 14(1)(2)(16)(b)(d)(23)(a)(iv)(v)(b) in force for E. at 2.7.2001 by S.I. 2001/2041, arts. 1(4), 2(1)(d)(ii) (subject to art. 2(2)(3) and with transitional, transitory and savings provisions in art. 3, Sch.); Sch. 4 para. 14(3)(7)-(9)(10)(a)(11)(12)(16)(a)(c)(17)-(21)(23)(a)(i)-(iii)(vi)(vii)(24)-(28) in force for E. at 1.4.2002 by S.I. 2001/4150, arts. 1(2), 3(2)(3)(a) (subject to transitional provisions in art. 4 and in S.I. 2002/1493, art. 4) (as amended by S.I. 2002/1493, art. 6); Sch. 4 para. 14(1)-(3)(7)-(9)(10)(a)(11)-(14)(16)-(20)(22)-(29) in force for W. at 1.4.2002 by S.I. 2002/920, arts. 1(4), 3(3) (subject to art. 3(4)-(10) and to transitional provisions in Schs. 1-3); Sch. 4 para. 14(13)(14) in force for E. at 1.4.2002 by S.I. 2002/1493, arts. 1(2), 3(2) (subject to transitional provisions in art. 4)

### Marginal Citations

- M1** 1999 c. 14.
- M2** 1999 c. 14.

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