



Children and Young Persons Act 1969

1969 CHAPTER 54

PART II

ACCOMMODATION ETC. FOR CHILDREN IN CARE, AND FOSTER CHILDREN

Community homes

35 Regional planning of accommodation for children in care

- (1) With a view to the preparation, in pursuance of the provisions of this Part of this Act, of regional plans for the provision of accommodation for children in the care of local authorities and for the equipment and maintenance of the accommodation, the Secretary of State may by order provide that any area specified in the order shall be a separate area (in this Act referred to as a " planning area ") for the purposes of those provisions.
- (2) Before making an order under subsection (1) of this section, the Secretary of State shall consult each local authority whose area or any part of whose area is included in the planning area which he proposes should be specified in the order and such other local authorities, if any, as he thinks fit.
- (3) It shall be the duty of the local authorities whose areas are wholly or partly included in a planning area (in this Act referred to, in relation to such an area, as " the relevant authorities ") to establish for the area, within such period as may be provided by the order specifying the planning area or such longer period as the Secretary of State may allow, a body to be called the children's regional planning committee.
- (4) The provisions of Schedule 2 to this Act shall have effect in relation to children's regional planning committees.
- (5) In the case of an order under subsection (1) of this section which (by virtue of section 69(3) of this Act) varies or revokes a previous order under that subsection—
 - (a) the reference in subsection (2) of this section to the planning area which the Secretary of State proposes should be specified in the order shall be construed

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- as a reference to the planning area as it would be if the variation were made or, as the case may be, to the planning area as it is before the revocation; and
- (b) the order may contain such transitional provisions (including provisions as to the expenses and membership of any existing or former children's regional planning committee for a planning area) as the Secretary of State thinks fit.

36 Regional plans for community homes

- (1) The children's regional planning committee for a planning area (in this and the following section referred to as " the committee ") shall prepare and submit to the Secretary of State, in accordance with the following provisions of this section, a plan (in this Act referred to as a " regional plan ") for the provision and maintenance of homes, to be known as community homes, for the accommodation and maintenance of children in the care of the relevant authorities.
- (2) The community homes for which provision may be made by a regional plan shall be—
 - (a) community homes provided by the relevant authorities ; and
 - (b) voluntary homes provided by voluntary organisations but in the management of each of which the plan proposes that a relevant authority should participate in accordance with an instrument of management.
- (3) Where a regional plan makes provision for any such voluntary home as is referred to in paragraph (b) of subsection (2) of this section, the plan shall designate the home as either a controlled community home or an assisted community home, according as it is proposed in the plan that the management, equipment and maintenance of the home should be the responsibility of one of the relevant authorities or of the voluntary organisation by which the home is provided.
- (4) Every regional plan shall contain proposals—
 - (a) with regard to the nature and purpose of each of the community homes for which the plan makes provision ; and
 - (b) for the provision of facilities for the observation of the physical and mental condition of children in the care of the relevant authorities and for the assessment of the most suitable accommodation and treatment for those children.
- (5) Before including provision in a regional plan that a community home should be provided by any of the relevant authorities or that a voluntary home provided by a voluntary organisation should be designated as a controlled or assisted community home, the committee shall obtain the consent of the authority or voluntary organisation by which the home is or is to be provided and, in the case of a home which is to be designated as a controlled or assisted community home, the consent of the local authority which it is proposed should be specified in the instrument of management for the home.
- (6) A regional plan shall be prepared in such form and shall contain such information as the Secretary of State may direct, either generally or in relation to a particular planning area or particular kinds of plans; and the Secretary of State may direct that the regional plan for a particular planning area shall be submitted to him within such period as may be specified in the direction or such longer period as he may allow.

37 Approval and variation of regional plans

- (1) After considering any regional plan submitted to him under section 36 of this Act and after making in the plan such modifications (if any) as he may agree with the committee by which the plan was submitted and as he may consider appropriate for securing that the plan makes proper provision for the accommodation and maintenance of children in the care of the relevant authorities, the Secretary of State may approve the plan.
- (2) Where the Secretary of State considers that, either with or without such modifications as are referred to in subsection (1) of this section, part but not the whole of a plan submitted to him under section 36 of this Act makes proper provision for the accommodation and maintenance of the children to whom that part of the plan relates, the Secretary of State may approve that part of the plan.
- (3) Where the Secretary of State has approved part only of a regional plan, the committee for the planning area concerned shall prepare and submit to him under section 36 of this Act a further regional plan containing proposals to supplement that part of the previous plan which was approved by the Secretary of State.
- (4) If, at any time after the approval of the whole or part of a regional plan by the Secretary of State, the committee for the planning area concerned consider that the plan, or such part of it as was approved, should be varied or replaced, they shall prepare and submit to the Secretary of State under section 36 of this Act a further regional plan for that purpose; and any such further regional plan may—
 - (a) take the form of a replacement for the regional plan or part thereof which was previously approved by the Secretary of State ; or
 - (b) contain proposals for the amendment of that regional plan or part thereof.
- (5) In relation to a further regional plan which contains proposals for supplementing or amending a regional plan or part of a regional plan which has been previously approved by the Secretary of State (in this subsection referred to as " the approved plan ")—
 - (a) section 36(4) of this Act shall have effect as if references to a regional plan were references to the approved plan as it would have effect if supplemented or amended in accordance with the proposals contained in the further regional plan; and
 - (b) subsection (1) of this section shall have effect as if the reference therein to children in the care of the relevant authorities were a reference to the children to whom the proposals in the plan relate; and
 - (c) in so far as the further regional plan contains proposals under which a home would cease to be a community home, or would become a community home of a different description, or would be used for a purpose different from that provided for in the approved plan, the committee preparing the further plan shall, before submitting it to the Secretary of State, obtain the consent of the local authority or voluntary organisation by which the home is provided and, if the proposal is for a home to become or to cease to be a controlled or assisted community home, the consent of the local authority which it is proposed should be, or which is, specified in the instrument of management for the home,
- (6) Where the Secretary of State approves a regional plan, in whole or in part, he shall give notice in writing of his approval to the committee for the planning area concerned specifying the date on which the plan is to come into operation, and the committee

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shall send a copy of the notice to each of the relevant authorities and to any voluntary organisation whose consent was required to any provision of the plan.

38 Provision of community homes by local authorities

Where a regional plan for a planning area includes provision for a community home to be provided by one of the relevant authorities, it shall be the duty of the local authority concerned to provide, manage, equip and maintain that home.

39 Instruments of management for assisted and controlled community homes

- (1) The Secretary of State may by order make an instrument of management providing for the constitution of a body of managers for any voluntary home which, in accordance with a regional plan approved by him, is designated as a controlled or assisted community home.
- (2) Where in accordance with a regional plan approved by the Secretary of State, two or more voluntary homes are designated as controlled community homes or as assisted community homes, then 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 section constituting one body of managers for those homes or for any two or more of them.
- (3) The number of persons who, in accordance with an instrument of management under this section, constitute the body of managers for a voluntary home shall be such number, being a multiple of three, as may be specified in the instrument of management, but the instrument shall provide that a proportion of the managers shall be appointed by such local authority as may be so specified and—
 - (a) in the case of a voluntary home which is designated in a regional plan as a controlled community home, the proportion shall be two-thirds ; and
 - (b) in the case of a voluntary home which is so designated as an assisted community home, the proportion shall be one-third.
- (4) An instrument of management shall provide that the " foundation managers ", that is to say, those of the managers of the voluntary home to which the instrument relates who are not appointed by a local authority in accordance with subsection (3) of this section, 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, as far as practicable, the character of the home as a voluntary home will be preserved and that, subject to section 40(3) of this Act, the terms of any trust deed relating to the home are observed.
- (5) An instrument of management under this section shall come into force on such date as may be specified in the instrument, and if such an instrument is in force in relation to a voluntary home the home shall be and be known as a controlled community home or an assisted community home, according to its designation in the regional plan.

40 Supplementary provisions as to instruments of management and trust deeds

- (1) An instrument of management for a controlled or assisted community home shall contain such provisions as the Secretary of State considers appropriate for giving effect to the provisions of the regional plan by which the home is designated as a controlled or assisted community home, but nothing in the instrument of management for such a home shall affect the purposes for which the premises comprising the home are held.
- (2) Without prejudice to the generality of subsection (1) of this section, an instrument of management may contain—
 - (a) provisions specifying the nature and purpose of the home or each of the homes to which it relates ;
 - (b) provisions 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) provisions relating to the management of that home or those homes and the charging of fees in respect of children placed therein or places made available to any local authority or other body.
- (3) Subject to subsection (1) of this section, in the event of any inconsistency between the provisions of any trust deed and the instrument of management relating to a controlled or assisted community home, the instrument of management shall prevail over the provisions of the trust deed in so far as they relate to that home.
- (4) After consultation with the voluntary organisation by which a controlled or assisted community home is provided and with the local authority specified in the instrument of management for the time being in force for that home, the Secretary of State may vary or revoke any provisions of that instrument of management by a further instrument of management.
- (5) In this Act the expression " trust deed ", in relation to a voluntary home, means any instrument (other than an instrument of management) regulating the maintenance, management or conduct of the home or the constitution of a body of managers or trustees of the home.

41 Management of controlled community homes

- (1) The management, equipment and maintenance of a controlled community home shall be the responsibility of the local authority specified in the instrument of management for that home, and in the following provisions of this section " the responsible authority ", in relation to such a home, means the local authority responsible for its management, equipment and maintenance.
- (2) Subject to the following provisions of this section, the responsible authority shall exercise their functions in relation to a controlled community home through the body of managers constituted by the instrument of management for the home, and any thing done, liability incurred or property acquired by the managers shall be done, incurred or acquired by the managers as agents of the responsible authority.
- (3) In so far as any matter is reserved for the decision of the responsible authority, either by subsection (4) of this section or by the instrument of management for the controlled community home in question or by the service by the responsible authority on the managers or any of them of a notice reserving any matter, that matter shall be dealt with by the responsible authority themselves and not by the managers, but in

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dealing with any matter so reserved, the responsible authority shall have regard to any representations made to them by the managers.

- (4) The employment of persons at a controlled community home shall be a matter reserved for the decision of the responsible authority, but where the instrument of management so provides the responsible authority may enter into arrangements with the voluntary organisation by which the home is provided whereby, in accordance with such terms as may be agreed between the responsible authority and the voluntary organisation, persons who are not in the employment of the responsible authority shall undertake duties at the home.
- (5) The accounting year of the managers of a controlled community home shall be such as may be specified by the responsible authority and, before such date in each accounting year as may be so specified, the managers of a controlled community home shall submit to the responsible authority estimates, in such form as the authority may require, of expenditure and receipts in respect of the next accounting year; and any expenses incurred by the managers of a controlled community home with the approval of the responsible authority shall be defrayed by that authority.
- (6) The managers of a controlled community home shall keep proper accounts in respect of that home and proper records in relation to the accounts, but where an instrument of management relates to more than one controlled community home, one set of accounts and records may be kept in respect of all the homes to which the instrument relates.

42 Management of assisted community homes

- (1) The management, equipment and maintenance of an assisted community home shall be the responsibility of the voluntary organisation by which the home is provided, and in the following provisions of this section " the responsible organisation ", in relation to such a home, means the voluntary organisation responsible for its management, equipment and maintenance.
- (2) Subject to the following provisions of this section, the responsible organisation shall exercise its functions in relation to the home through the body of managers constituted by the instrument of management for the home, and any thing done, liability incurred or property acquired by the managers shall be done, incurred or acquired by the managers as agents of the responsible organisation.
- (3) In so far as any matter is reserved for the decision of the responsible organisation, either by subsection (4) of this section or by the instrument of management for the assisted community home in question or by the service by the responsible organisation on the managers or any of them of a notice reserving any matter, that matter shall be dealt with by the responsible organisation itself and not by the managers, but in dealing with any matter so reserved the responsible organisation shall have regard to any representations made to the organisation by the managers.
- (4) The employment of persons at an assisted community home shall be a matter reserved for the decision of the responsible organisation but, subject to subsection (5) of this section.—
 - (a) where the responsible organisation proposes to engage any person to work at the home or to terminate without notice the employment of any person at the home, the responsible organisation shall consult the local authority specified in the instrument of management and, if the local authority so directs, the

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- responsible organisation shall not carry out its proposal without the consent of the local authority ; and
- (b) the local authority may, after consultation with the responsible organisation, require the organisation to terminate the employment of any person at the home.
- (5) Paragraphs (a) and (b) of subsection (4) of this section shall not apply—
- (a) in such cases or circumstances as may be specified by notice in writing given by the local authority to the responsible organisation; and
 - (b) in relation to the employment of any persons or class of persons specified in the instrument of management.
- (6) The accounting year of the managers of an assisted community home shall be such as may be specified by the responsible organisation and, before such date in each accounting year as may be so specified, the managers of an assisted community home shall submit to the responsible organisation estimates, in such form as the organisation may require, of expenditure and receipts in respect of the next financial year; and all expenses incurred by the managers of an assisted community home with the approval of the responsible organisation shall be defrayed by the organisation.
- (7) The managers of an assisted community home shall keep proper accounts in respect of that home and proper records in relation to those accounts, but where an instrument of management relates to more than one assisted community home, one set of accounts and records may be kept in respect of all the homes to which the instrument relates.

43 Control of premises used for, and conduct of, community homes

- (1) The Secretary of State may make regulations with respect to the conduct of community homes and for securing the welfare of the children in community homes.
- (2) Without prejudice to the generality of subsection (1) of this section, regulations under this section may—
 - (a) impose requirements as to the accommodation and equipment to be provided in community homes and as to the medical arrangements to be made for protecting the health of the children in the homes ;
 - (b) impose requirements as to the facilities which are to be provided for giving religious instruction to children in community homes;
 - (c) require the approval of the Secretary of State for the provision and use of accommodation for the purpose of restricting the liberty of children in community homes and impose other requirements as to the placing of a child in accommodation provided for that purpose, including a requirement to obtain the permission of the local authority or voluntary organisation in whose care the child is;
 - (d) authorise the Secretary of State to give and revoke directions requiring the local authority by whom a community home is provided or who are specified in the instrument of management for a controlled community home or the voluntary organisation by which an assisted community home is provided to accommodate in the home a child in the care of a local authority for whom no places are made available in that home or to take such action in relation to a child accommodated in the home as may be specified in the directions;
 - (e) require reviews of any permission given in pursuance of paragraph (c) above and provide for such a review to be conducted in a manner approved by the Secretary of State by a committee of persons representing the local

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authority or voluntary organisation in question but including at least one person satisfying such conditions as may be prescribed by the regulations with a view to securing that he is independent of the authority or organisation and unconnected with any community home containing such accommodation as is mentioned in the said paragraph (c);

- (f) prescribe standards to which premises used for community homes are to conform ;
 - (g) require the approval of the Secretary of State to the use of buildings for the purpose of community homes and to the doing of anything (whether by way of addition, diminution or alteration) which materially affects the buildings or grounds or other facilities or amenities available for children in community homes;
 - (h) provide that, to such extent as may be provided for in the regulations, the Secretary of State may direct that any provision of regulations under this section which is specified in the direction and makes any such provision as is referred to in paragraph (a), (f) or (g) above shall not apply in relation to a particular community home or the premises used for it, and may provide for the variation or revocation of any such direction by the Secretary of State.
- (3) Without prejudice to the power to make regulations under this section conferring functions on the local authority or voluntary organisation by which a community home is provided or on the managers of a controlled or assisted community home, regulations under this section may confer functions in relation to a controlled or assisted community home on the local authority named in the instrument of management for the home.
- (4) Where it appears to the Secretary of State that any premises used for the purposes of a community home are unsuitable for those purposes, or that the conduct of a community home is not in accordance with regulations made by him under this section or is otherwise unsatisfactory, he may by notice in writing served on the responsible body, direct that as from such date as may be specified in the notice the premises shall not be used for the purposes of a community home.
- (5) Where the Secretary of State has given a direction in relation to a controlled or assisted community home under subsection (4) of this section and the direction has not been revoked, the Secretary of State may at any time by order revoke the instrument of management for that home.
- (6) For the purposes of subsection (4) of this section the responsible body—
- (a) in relation to a community home provided by a local authority, is that local authority ;
 - (b) in relation to a controlled community home, is the local authority specified in the instrument of management for that home ; and
 - (c) in relation to an assisted community home, is the voluntary organisation by which the home is provided.

44 Controlled and assisted community homes exempted from certain provisions as to voluntary homes

While a voluntary home is a controlled or assisted community home, the following enactments shall not apply in relation to it, that is to say.—

- (a) sections 29 and 30 of the Children Act 1948 (compulsory registration of voluntary homes);

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- (b) section 31 of that Act (regulations as to conduct of voluntary homes); and
- (c) section 93 of the Act of 1933 and section 32 of the Children Act 1948 (notification to Secretary of State of certain particulars relating to voluntary homes).

45 Determination of disputes relating to controlled and assisted community homes

- (1) Subject to subsection (5) of this section, where any dispute relating to a controlled community home arises between the local authority specified in the instrument of management and either the voluntary organisation by which the home is provided or any other local authority who have placed, or desire or are required to place, a child in their care in the home, the dispute may be referred by either party to the Secretary of State for his determination.
- (2) Subject to subsection (5) of this section, where any dispute relating to an assisted community home arises between the voluntary organisation by which the home is provided and any local authority who have placed, or desire to place, a child in their care in the home, the dispute may be referred by either party to the Secretary of State for his determination.
- (3) Where a dispute is referred to the Secretary of State under this section he may, in order to give effect to his determination of the dispute, give such directions as he thinks fit to the local authority or voluntary organisation concerned.
- (4) The provisions of this section shall apply notwithstanding that the matter in dispute may be one which, under or by virtue of the preceding provisions of this Part of this Act, is reserved for the decision, or is the responsibility, of the local authority specified in the instrument of management or, as the case may be, the voluntary organisation by which the home is provided.
- (5) Where any trust deed relating to a controlled or assisted community home contains provision whereby a bishop or any other ecclesiastical or denominational authority has power to decide questions relating to religious instruction given in the home, no dispute which is capable of being dealt with in accordance with that provision shall be referred to the Secretary of State under this section.

46 Discontinuance of approved schools etc. on establishment of community homes

- (1) If in the case of any approved school, remand home, approved probation hostel or approved probation home within the meaning of the Criminal Justice Act 1948 (hereafter in this section referred to as an " approved institution ") it appears to the Secretary of State that in consequence of the establishment of community homes for a planning area the institution as such is no longer required, he may by order provide that it shall cease to be an approved institution on a date specified in the order.
- (2) The provisions of Schedule 3 to this Act shall have effect in relation to institutions which are, or by virtue of this section have ceased to be, approved institutions.

47 Discontinuance by voluntary organisation of controlled or assisted community home

- (1) The voluntary organisation by which a controlled or assisted community home is provided shall not cease to provide the home except after giving to the Secretary of

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State and the local authority specified in the instrument of management not less than two years' notice in writing of their intention to do so.

- (2) A notice under subsection (1) of this section shall specify the date from which the voluntary organisation intends to cease to provide the home as a community home; and where such a notice is given and is not withdrawn before the date specified in it, then, subject to subsection (4) of this section the instrument of management for the home shall cease to have effect on that date and accordingly the home shall then cease to be a controlled or assisted community home.
- (3) Where a notice is given under subsection (1) of this section, the local authority to whom the notice is given shall inform the children's regional planning committee responsible for the regional plan under which the voluntary home in question was designated as a controlled or assisted community home of the receipt and content of the notice.
- (4) Where a notice is given under subsection (1) of this section and the body of managers for the home to which the notice relates give notice in writing to the Secretary of State that they are unable or unwilling to continue as managers of the home until the date specified in the first-mentioned notice, the Secretary of State may by order—
 - (a) revoke the instrument of management; and
 - (b) require the local authority who were specified in that instrument to conduct the home, until the date specified in the notice under subsection (1) of this section or such earlier date (if any) as may be specified for the purposes of this paragraph in the order, as if it were a community home provided by the local authority.
- (5) Where the Secretary of State makes such a requirement as is specified in subsection (4) (b) of this section.—
 - (a) nothing in the trust deed for the home in question shall affect the conduct of the home by the local authority; and
 - (b) the Secretary of State may by order direct that for the purposes of any provision specified in the direction and made by or under any enactment relating to community homes (other than this section) the home shall, until the date or earlier date specified as mentioned in subsection (4)(b) of this section, be treated as an assisted community home or as a controlled community home, but except in so far as the Secretary of State so directs, the home shall until that date be treated for the purposes of any such enactment as a community home provided by the local authority ; and
 - (c) on the date or earlier date specified as mentioned in subsection (4)(b) of this section the home shall cease to be a community home.

48 Financial provisions applicable on cessation of controlled or assisted community home

- (1) Where the instrument of management for a controlled or assisted community home ceases to have effect by virtue either of an order under section 43(5) of this Act or of subsection (2) or subsection (4)(a) of section 47 of this Act, the voluntary organisation by which the home was provided or, if the premises used for the purposes of the home are not vested in that organisation, the persons in whom those premises are vested (in this section referred to as " the trustees of the home "), shall become liable, in accordance with the following provisions of this section, to make repayment in respect of any increase in the value of the premises and other property belonging

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to the voluntary organisation or the trustees of the home which is attributable to the expenditure of public money thereon.

- (2) Where an instrument of management has ceased to have effect as mentioned in subsection (1) of this section and the instrument related—
- (a) to a controlled community home ; or
 - (b) to an assisted community home which, at any time before that instrument of management came into force, was a controlled community home,
- then, on the home ceasing to be a community home, the voluntary organisation by which the home was provided or, as the case may be, the trustees of the home, shall pay to the local authority specified in that instrument of management a sum equal to that part of the value of any relevant premises which is attributable to expenditure by the local authority who at the time the expenditure was incurred had responsibility for the management, equipment and maintenance of the home by virtue of section 41(1) of this Act.
- (3) For the purposes of subsection (2) of this section, " relevant premises", in relation to a controlled or assisted community home, means premises used for the purposes of the home and belonging to the voluntary organisation or the trustees of the home but erected, extended or improved, at any time while the home was a controlled community home, by the local authority having, at that time, such responsibility in relation to the home as is mentioned in subsection (2) of this section.
- (4) Where an instrument of management has ceased to have effect as mentioned in subsection (1) of this section and the instrument related—
- (a) to an assisted community home ; or
 - (b) to a controlled community home which, at any time before that instrument of management came into force, was an assisted community home,
- then, on the home ceasing to be a community home, the voluntary organisation by which the home was provided or, as the case may be, the trustees of the home, shall pay to the Secretary of State a sum equal to that part of the value of the premises and any other property used for the purposes of the home which is attributable to the expenditure of money provided by way of grant under section 65 of this Act.
- (5) Where an instrument of management has ceased to have effect as mentioned in subsection (1) of this section and the controlled or assisted community home to which it related was conducted in premises which formerly were used as an approved school or were an approved probation hostel or home but which were designated as a community home in a regional plan approved by the Secretary of State, then, on the home ceasing to be a community home, the voluntary organisation by which the home was provided or, as the case may be, the trustees of the home, shall pay to the Secretary of State a sum equal to that part of the value of the premises concerned and of any other property used for the purposes of the home and belonging to the voluntary organisation or the trustees of the home which is attributable to the expenditure—
- (a) of sums paid towards the expenses of the managers of an approved school under section 104 of the Act of 1933; or
 - (b) of sums paid under section 77(3)(b) of the Criminal Justice Act 1948 in relation to expenditure on approved probation hostels or homes.
- (6) The amount of any sum payable under this section by the voluntary organisation by which a controlled or assisted community home was provided or by the trustees of the home shall be determined in accordance with such arrangements—

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- (a) as may be agreed between the voluntary organisation by which the home was provided and the local authority concerned or, as the case may be, the Secretary of State; or
 - (b) in default of agreement, as may be determined by the Secretary of State;
- and with the agreement of the local authority concerned or the Secretary of State, as the case may be, the liability to pay any sum under this section may be discharged, in whole or in part, by the transfer of any premises or other property used for the purposes of the home in question.
- (7) The provisions of this section shall have effect notwithstanding anything in any trust deed for a controlled or assisted community home and notwithstanding the provisions of any enactment or instrument governing the disposition of the property of a voluntary organisation.
 - (8) Any sums received by the Secretary of State under this section shall be paid into the Consolidated Fund.