



# Children Act 1989

## 1989 CHAPTER 41

### PART VI

#### COMMUNITY HOMES

#### **53 Provision of community homes by local authorities.**

- (1) Every local authority shall make such arrangements as they consider appropriate for securing that homes (“community homes”) are available—
  - (a) for the care and accommodation of children looked after by them; and
  - (b) for purposes connected with the welfare of children (whether or not looked after by them),and may do so jointly with one or more other local authorities.
- (2) In making such arrangements, a local authority shall have regard to the need for ensuring the availability of accommodation—
  - (a) of different descriptions; and
  - (b) which is suitable for different purposes and the requirements of different descriptions of children.
- (3) A community home may be a home—
  - (a) provided, [<sup>F1</sup>equipped, maintained and (subject to subsection (3A)) managed] by a local authority; or
  - (b) provided by a voluntary organisation but in respect of which a local authority and the organisation—
    - (i) propose that, in accordance with an instrument of management, the [<sup>F2</sup>equipment, maintenance and (subject to subsection (3B)) management] of the home shall be the responsibility of the local authority; or
    - (ii) so propose that the management, equipment and maintenance of the home shall be the responsibility of the voluntary organisation.

*Status: Point in time view as at 01/04/2004.*

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- [<sup>F3</sup>(3A) A local authority may make arrangements for the management by another person of accommodation provided by the local authority for the purpose of restricting the liberty of children.
- (3B) Where a local authority are to be responsible for the management of a community home provided by a voluntary organisation, the local authority may, with the consent of the body of managers constituted by the instrument of management for the home, make arrangements for the management by another person of accommodation provided for the purpose of restricting the liberty of children.]
- (4) Where a local authority are to be responsible for the management of a community home provided by a voluntary organisation, the authority shall designate the home as a controlled community home.
- (5) Where a voluntary organisation are to be responsible for the management of a community home provided by the organisation, the local authority shall designate the home as an assisted community home.
- (6) Schedule 4 shall have effect for the purpose of supplementing the provisions of this Part.

**Textual Amendments**

- F1** Words in s. 53(3)(a) substituted (8.3.1996) by 1994 c. 33, s. 22(2)(a)(i); S.I. 1996/625, art.2
- F2** Words in s. 53(3)(b)(i) substituted (8.3.1996) by 1994 c. 33, s. 22(2)(a)(ii); S.I. 1996/625, art. 2
- F3** S. 53(3A)(3B) inserted (8.3.1996) by 1994 c. 33, s. 22(2)(b); S.I. 1996/625, art.2

**Commencement Information**

- I1** S. 53 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

<sup>F4</sup>54 .....

**Textual Amendments**

- F4** S. 54 repealed (1.4.2002) by 2000 c. 14, s. 117(2), Sch. 6; S.I. 2001/4150, art. 3(3)(c)(viii) (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, art. 6); S.I. 2002/920, art. 3(3)(g) (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)

**55 Determination of disputes relating to controlled and assisted community homes.**

- (1) Where any dispute relating to a controlled community home arises between the local authority specified in the home’s instrument of management and—
  - (a) the voluntary organisation by which the home is provided; or
  - (b) any other local authority who have placed, or desire or are required to place, in the home a child who is looked after by them,
 the dispute may be referred by either party to the Secretary of State for his determination.

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- (2) 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, in the home a child who is looked after by them, 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) This section applies even though the matter in dispute may be one which, under or by virtue of Part II of Schedule 4, is reserved for the decision, or is the responsibility, of—
  - (a) the local authority specified in the home’s instrument of management; or
  - (b) (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.
- (6) In this Part “trust deed”, in relation to a voluntary home, means any instrument (other than an instrument of management) regulating—
  - (a) the maintenance, management or conduct of the home; or
  - (b) the constitution of a body of managers or trustees of the home.

#### **Commencement Information**

**I2** S. 55 wholly in force at 14.10.1991 see s. 108(2)(3) see S.I. 1991/828, art. 3(2)

## **56 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 State and the local authority specified in the home’s instrument of management not less than two years’ notice in writing of their intention to do so.
- (2) A notice under subsection (1) shall specify the date from which the voluntary organisation intend to cease to provide the home as a community home.
- (3) Where such a notice is given and is not withdrawn before the date specified in it, the home’s instrument of management shall cease to have effect on that date and the home shall then cease to be a controlled or assisted community home.
- (4) Where a notice is given under subsection (1) and the home’s managers give notice in writing to the Secretary of State that they are unable or unwilling to continue as its managers until the date specified in the subsection (1) notice, the Secretary of State may by order—
  - (a) revoke the home’s instrument of management; and
  - (b) require the local authority who were specified in that instrument to conduct the home until—
    - (i) the date specified in the subsection (1) notice; or

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- (ii) 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 imposes a requirement under subsection (4)(b)—
- (a) nothing in the trust deed for the home shall affect the conduct of the home by the local authority;
  - (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), be treated as a controlled or assisted community home;
  - (c) 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
  - (d) on the date or earlier date specified as mentioned in subsection (4)(b) the home shall cease to be a community home.

#### Commencement Information

**I3** S. 56 wholly in force at 14.10.1991 see 108(2)(3) and S.I. 1991/828, art. 3(2)

#### 57 Closure by local authority of controlled or assisted community home.

- (1) The local authority specified in the instrument of management for a controlled or assisted community home may give—
- (a) the Secretary of State; and
  - (b) the voluntary organisation by which the home is provided,
- not less than two years' notice in writing of their intention to withdraw their designation of the home as a controlled or assisted community home.
- (2) A notice under subsection (1) shall specify the date (“the specified date”) on which the designation is to be withdrawn.
- (3) Where—
- (a) a notice is given under subsection (1) in respect of a controlled or assisted community home;
  - (b) the home's managers give notice in writing to the Secretary of State that they are unable or unwilling to continue as managers until the specified date; and
  - (c) the managers' notice is not withdrawn,
- the Secretary of State may by order revoke the home's instrument of management from such date earlier than the specified date as may be specified in the order.
- (4) Before making an order under subsection (3), the Secretary of State shall consult the local authority and the voluntary organisation.
- (5) Where a notice has been given under subsection (1) and is not withdrawn, the home's instrument of management shall cease to have effect on—
- (a) the specified date; or
  - (b) where an earlier date has been specified under subsection (3), that earlier date,

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and the home shall then cease to be a community home.

#### Commencement Information

**I4** S. 57 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

### 58 Financial provisions applicable on cessation of controlled or assisted community home or disposal etc. of premises.

(1) Where—

(a) the instrument of management for a controlled or assisted community home is revoked or otherwise ceases to have effect under section <sup>F5</sup> . . . , 56(3) or (4) (a) or 57(3) or (5); or

(b) any premises used for the purposes of such a home are (at any time after 13th January 1987) disposed of, or put to use otherwise than for those purposes, the proprietor shall become liable to pay compensation (“the appropriate compensation”) in accordance with this section.

(2) Where the instrument of management in force at the relevant time relates—

(a) to a controlled community home; or

(b) to an assisted community home which, at any time before the instrument came into force, was a controlled community home,

the appropriate compensation is a sum equal to that part of the value of any premises which is attributable to expenditure incurred in relation to the premises, while the home was a controlled community home, by the authority who were then the responsible authority.

(3) Where the instrument of management in force at the relevant time relates—

(a) to an assisted community home; or

(b) to a controlled community home which, at any time before the instrument came into force, was an assisted community home,

the appropriate compensation is a sum equal to that part of the value of the premises which is attributable to the expenditure of money provided by way of grant under section 82, section 65 of the <sup>M1</sup>Children and Young Persons Act 1969 or section 82 of the <sup>M2</sup>Child Care Act 1980.

(4) Where the home is, at the relevant time, conducted in premises which formerly were used as an approved school or were an approved probation hostel or home, the appropriate compensation is a sum equal to that part of the value of the premises 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 <sup>M3</sup>Children and Young Persons Act 1933; <sup>F6</sup> . . .

(b) of sums paid under section 51(3)(c) of the <sup>M4</sup>Powers of Criminal Courts Act 1973 [<sup>F7</sup> or section 20(1)(c) of the Probation Service Act 1993] in relation to expenditure on approved probation hostels or homes. [<sup>F8</sup> or

<sup>F8</sup>(c) of sums paid under section 3, 5 or 9 of the Criminal Justice and Court Services Act 2000 in relation to expenditure on approved premises (within the meaning of Part I of that Act).]

(5) The appropriate compensation shall be paid—

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- (a) in the case of compensation payable under subsection (2), to the authority who were the responsible authority at the relevant time; and
  - (b) in any other case, to the Secretary of State.
- (6) In this section—
- “disposal” includes the grant of a tenancy and any other conveyance, assignment, transfer, grant, variation or extinguishment of an interest in or right over land, whether made by instrument or otherwise;
  - “premises” means any premises or part of premises (including land) used for the purposes of the home and belonging to the proprietor;
  - “the proprietor” means—
    - (a) the voluntary organisation by which the home is, at the relevant time, provided; or
    - (b) if the premises are not, at the relevant time, vested in that organisation, the persons in whom they are vested;
  - “the relevant time” means the time immediately before the liability to pay arises under subsection (1); and
  - “the responsible authority” means the local authority specified in the instrument of management in question.
- (7) For the purposes of this section an event of a kind mentioned in subsection (1)(b) shall be taken to have occurred—
- (a) in the case of a disposal, on the date on which the disposal was completed or, in the case of a disposal which is effected by a series of transactions, the date on which the last of those transactions was completed;
  - (b) in the case of premises which are put to different use, on the date on which they first begin to be put to their new use.
- (8) The amount of any sum payable under this section shall be determined in accordance with such arrangements—
- (a) as may be agreed between the voluntary organisation by which the home is, at the relevant time, provided and the responsible authority 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.
- (9) With the agreement of the responsible authority or (as the case may be) the Secretary of State, the liability to pay any sum under this section may be discharged, in whole or in part, by the transfer of any premises.
- (10) This section has effect regardless of—
- (a) anything in any trust deed for a controlled or assisted community home;
  - (b) the provisions of any enactment or instrument governing the disposition of the property of a voluntary organisation.

#### Textual Amendments

- F5** Word in s. 58(1)(a) repealed (1.4.2002) by 2000 c. 14, s. 117(2), **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)**; S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3 and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**)
- F6** Word in s. 58(4)(a) repealed (1.4.2001) by 2000 c. 43, ss. 74, 75, Sch. 7 Pt. II para. 93(a), **Sch. 8**; S.I. 2001/919, **art. 2(f)(ii)(g)**
- F7** Words in s. 58(4)(b) inserted (5.2.1994) by 1993 c. 47, ss. 32, 33(2), **Sch. 3 para. 9(2)**

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**F8** S. 58(4)(c) and the preceding word “or” inserted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 93(b)**; S.I. 2001/919, **art. 2(f)(ii)**

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**Commencement Information**

**I5** S. 58 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

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**Marginal Citations**

**M1** 1969 c. 54.

**M2** 1980 c. 5.

**M3** 1933 c. 12.

**M4** 1973 c. 62.

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