

## SCHEDULE 1

### TRANSITIONAL PROVISIONS

#### Care homes: transitory provisions

- 11.**—(1) This paragraph applies where—
- (a) by virtue of sub-paragraph (4) or (7) of paragraph 5 an existing provider (in this paragraph referred to as “the registered person”) is treated as having been granted registration for the purposes of Part II of the Act in respect of a care home;
  - (b) the registered person was immediately before 1st April 2002 registered under Part I or II of the 1984 Act in respect of the care home.
- (2) Where this paragraph applies, the registration which the registered person is treated as having been granted shall have effect as if, for the period from 1st April 2002 to 31st March 2007—
- (a) it were conditional on the condition specified in the next following sub-paragraph; and
  - (b) for the purposes of section 19(1) of the Act the condition had been agreed in writing between the registered person and the Commission.
- (3) The condition specified in this sub-paragraph is that the registered person shall not make available for use by a service user as a private room any room—
- (a) in respect of which the relevant authority notified the registered person that it was of insufficient size to be used as a private room for the accommodation of any resident; or
  - (b) which was not used as a private room for a period of at least 7 days in the twelve months preceding 1st April 2002, unless the relevant authority notified the registered person that the authority approved the use of the room as a private room for the accommodation of any resident.
- (4) In sub-paragraph (3)—
- “service user” means any person in the care home who is in need of nursing or personal care by reason of disability, infirmity, past or present illness, past or present mental disorder or past or present dependence on alcohol or drugs;
- “resident” means a person who—
- (a) in the case of a care home in respect of which any person was immediately before 1st April 2002 registered under Part I of the 1984 Act, was for the purposes of the Residential Care Homes Regulations 1984(1) a resident of the home; or
  - (b) in the case of a care home in respect of which any person was immediately before 1st April 2002 registered under Part II of the 1984 Act, was for the purposes of the Nursing Homes and Mental Nursing Homes Regulations 1984(2) a patient in the home.
- (5) Sub-paragraphs (2) and (3) shall be without prejudice—
- (a) to any other conditions to which the registration of the registered person for the purposes of Part II of the Act is subject, or which under this Order have effect as if they were such conditions; and
  - (b) to the powers of the Commission to vary, remove or impose any conditions in accordance with Part II of the Act.

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(1) S.I. 1984/1345.

(2) S.I. 1984/1578.