



BERMUDA

RESIDENTIAL CARE HOMES AND NURSING HOMES ACT 1999

1999 : 28

TABLE OF CONTENTS

- 1 Citation
- 2 Interpretation

*Licensing of Homes*

- 3 Homes to be licensed
- 4 Exemptions
- 5 Register
- 6 Removal from and restoration to Register
- 7 Application for licence
- 8 Advertisement of application, objections
- 9 Consideration of applications
- 10 Conditions
- 11 Information to applicant
- 12 Reasons for refusal
- 13 Issuance of a licence
- 14 Renewal of a licence
- 14A Licensee intends to cease operations

*Powers of the Minister*

- 14B Minister may issue order to operator
- 15 Cancellation of licence or variation of conditions
- 16 Cancellation or variation in urgent circumstances
- 16A Appointment of interim operator in urgent circumstances
- 16B Appointment of interim administrator in urgent circumstances

*Supplementary Provisions*

- 17 Surrender of licence
- 18 Appeals

## RESIDENTIAL CARE HOMES AND NURSING HOMES ACT 1999

---

|     |                                    |
|-----|------------------------------------|
| 19  | Operation and business of the home |
| 20  | Inspectors                         |
| 21  | Obstruction an offence             |
| 22  | Protection from liability          |
| 23  | Regulations                        |
| 23A | Code of Practice                   |
| 24  | Offences                           |
| 25  | Proceedings                        |
| 26  | Act binds Crown                    |

### *Final Provisions*

|    |                          |
|----|--------------------------|
| 27 | Consequential amendments |
| 28 | Savings and transitional |
| 29 | Commencement             |

### SCHEDULE

WHEREAS it is expedient to make provision for residential care homes and nursing homes and connected matters:

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:—

#### Citation

1 This Act may be cited as the Residential Care Homes and Nursing Homes Act 1999.

#### Interpretation

2 In this Act, unless the context otherwise requires:

“application” *[deleted by 2017 : 50 s. 2]*

“certificate” *[deleted by 2017 : 50 s. 2]*

“Chief Medical Officer” has the meaning assigned to that expression under section 2(1) of the Public Health Act 1949;

“Code” means the Code of Practice issued by the Minister under section 23A;

“disabled person” means a person who is substantially impaired in seeing, hearing, speaking, breathing, moving, learning or working;

(a) by reason of injury or disease, whether permanent or otherwise; or

(b) by reason of some congenital cause;

“home” means a residential care home or a nursing home other than a hospital maintained or controlled by any public authority;

“inspector” means an inspector appointed by the Minister pursuant to section 20;

## RESIDENTIAL CARE HOMES AND NURSING HOMES ACT 1999

---

“Level A Compliance with the Code” means the operator is fully compliant with the Code;

“Level B Compliance with the Code” means the operator’s compliance with the Code is satisfactory;

“Level C Compliance with the Code” means the operator’s compliance with the Code is less than satisfactory;

“Level D Compliance with the Code” means the operator’s compliance with the Code is poor;

“licence” means a licence issued by the Minister under section 13;

“Minister” means the Minister responsible for health;

“nursing home” means a residential care home which provides nursing services;

“nursing services” include services provided by general nurses, nurse specialists and nursing associates within the meaning assigned to those expressions by section 2 of the Nursing Act 1997;

“operator” means the person to whom the Minister has issued a licence under section 13;

“owner” *[deleted by 2017 : 50 s. 2]*

“prescribed” means prescribed by Regulations under this Act;

“Register” means the Register of homes licensed under this Act, established and maintained under section 5;

“Regulations” means Regulations made under section 23;

“resident” includes a person who receives personal care during the day (“day care”);

“residential care home” means any establishment where board and personal care are provided for two or more unconnected persons who are:

- (a) 65 years of age or older;
- (b) disabled; or
- (c) 65 years of age or older and disabled;

“unconnected person” means a person who is not connected, by blood or otherwise, with a person who operates a residential care home.

“website” means [www.gov.bm](http://www.gov.bm).

*[Section 2 amended by 2017 : 50 s. 2 effective 12 January 2018]*

## RESIDENTIAL CARE HOMES AND NURSING HOMES ACT 1999

---

### *Licensing of Homes*

#### Homes to be licensed

3 (1) Subject to section 4, a person shall not operate a home that is not licensed under this Act.

(2) A person who operates a home in contravention of subsection (1) commits an offence and is liable on conviction by a court of summary jurisdiction to a fine not exceeding \$2,500.

(3) Where the offence is continued by that person after conviction that person commits a further offence and is liable to a fine not exceeding \$250 for each day during which the offence continues or a term of imprisonment not exceeding 6 months or both such fine and term of imprisonment.

*[Section 3 amended by 2017 : 50 s. 16 effective 12 January 2018]*

#### Exemptions

4 (1) Where the Minister, in the special circumstances of a particular case, considers it appropriate so to do, he may exempt a home from all or any of the provisions of this Act.

(2) *[Repealed by 2017 : 50 s. 16]*

*[Section 4 subsection (1) amended and subsection (2) repealed by 2017 : 50 s. 16 effective 12 January 2018]*

#### Register

5 (1) The Minister shall establish and maintain in such manner as he considers appropriate a register of homes licensed under this Act, and shall publish the Register on the website or make the register available to the public for inspection during ordinary business hours.

(1A) The Register shall contain the following particulars—

- (a) the name of the operator of the home;
- (b) the name and address of the home;
- (c) the date of the initial issue of the licence and dates of renewal;
- (d) the person designated as the administrator of the home;
- (e) the person designated as the deputy administrator of the home;
- (f) the number of persons the home can accommodate—
  - (i) as boarding residents;
  - (ii) as day care residents;
- (g) the date on which the licence will expire;
- (h) any conditions attached to the licence;

RESIDENTIAL CARE HOMES AND NURSING HOMES ACT 1999

---

- (i) the home's level of compliance with the Code;
  - (j) such other particulars as the Minister considers appropriate.
- (2) The Register shall be gazetted annually by the Minister.

*[Section 5 amended by 2017 : 50 s. 3 & 16 effective 12 January 2018]*

Removal from and restoration to Register

6 Subject to sections 15, 16, 16A and 16B, the Minister may:

- (a) remove the name of a home, operator or administrator from the Register;  
and
- (b) restore to the Register a name which has been removed.

*[Section 6 amended by 2017 : 50 s. 16 effective 12 January 2018]*

Application for licence

7 (1) A person who wishes to operate a home may make an application to the Minister for a licence under this Act.

(2) An application under subsection (1) shall contain such information in relation to the operation of the home as the Minister may require.

(3) The Minister is not required to proceed with an application under subsection (1) if the application and any additional information requested by the Minister are not complete in all material respects.

*[Section 7 amended by 2017 : 50 s. 16 effective 12 January 2018]*

Advertisement of application, objections

8 (1) Where the Minister receives an application for a licence he shall publish in the Gazette a notice in accordance with subsection (2).

(2) A notice under subsection (1) shall specify:

- (a) the name of the applicant;
- (b) the proposed name of the home;
- (c) the address of the proposed home;
- (d) the proposed number of persons to be provided with board and personal care;
- (da) the proposed number of persons to be provided with day care only;
- (e) that a person who objects to the licensing of that home may object in writing to the Minister within 7 days of the date of publication of the notice.

(3) An objection under subsection (2)(e) shall specify the grounds on which it is made.

## RESIDENTIAL CARE HOMES AND NURSING HOMES ACT 1999

---

(4) The Minister shall take any objections made under subsection (2)(e) into account in making a decision under section 9(1).

*[Section 8 amended by 2017 : 50 s. 16 effective 12 January 2018]*

### Consideration of applications

9 (1) Subject to subsection (2), the Minister may approve, refuse to approve, or approve subject to conditions, an application.

(1A) The Minister may cause inspections to be conducted as he considers appropriate in respect of the application, and may postpone determination of the application until such inspections have been completed and a written report furnished.

(2) Where the Minister is satisfied that:

- (a) the applicant is a fit and proper person to operate a home;
- (b) the building proposed to be used is fit for use as such a home;
- (ba) the applicant is able to conduct the business of the home in a prudent manner;
- (c) the applicant is able to provide the facilities, equipment and staff to operate such a home; and
- (d) either there are no objections to the proposed licence, or any objections have been dealt with in accordance with section 8(4),

he shall license the home.

*[Section 9 amended by 2017 : 50 s. 16 effective 12 January 2018]*

### Conditions

10 (1) Any conditions attached by the Minister shall be specified in the licence.

(2) The operator of a home may, at any time, make a written request to the Minister that a condition attached to the licence be varied or removed.

(3) The Minister may require such additional information in relation to the operation of the home with respect to a request under subsection (2), and is not required to proceed with the request if such additional information is not complete in all material respects.

(4) Where a condition is varied or removed, the operator shall, as soon as practicable, surrender his licence to the Minister, and the Minister shall issue a new licence to the operator.

*[Section 10 repealed and replaced by 2017 : 50 s. 4 effective 12 January 2018]*

### Information to applicant

11 (1) Subject to section 9(1A), where an application or request is made under section 7, 10(2) or 14, the Minister shall notify the applicant of his decision in writing not later than 60 days after receipt of the application or request.

RESIDENTIAL CARE HOMES AND NURSING HOMES ACT 1999

---

(2) *[Repealed by 2017 : 50 s. 16]*

*[Section 11 amended by 2017 : 50 s. 16 effective 12 January 2018]*

Reasons for refusal

12 The Minister shall, in writing, give to an applicant reasons for refusing a licence, or refusing to vary or remove a condition, or refusing to renew a licence.

*[Section 12 amended by 2017 : 50 s. 16 effective 12 January 2018]*

Issuance of a licence

13 (1) Where, pursuant to an application under section 7(1), the Minister licences a home, he shall issue to the applicant a licence which shall be in such form as the Minister may from time to time determine.

(2) A licence shall be issued for a period of one year, or such other period as may be specified in the licence.

*[Section 13 repealed and replaced by 2017 : 50 s. 5 effective 12 January 2018]*

Renewal of a licence

14 (1) An application to renew a licence shall be made by the operator not less than 45 days before the date on which the licence expires; and the application shall contain such additional information in relation to the operation of the home as the Minister may require.

(2) Sections 9 to 13 apply in respect of an application to renew a licence as they apply to an application for a licence.

(3) When determining the application fee for the renewal of a licence, the Minister shall take into account the operator's level of compliance with the Code.

(4) The Minister may refuse to renew the licence of a home where the operator has—

- (a) failed to comply with a requirement under section 9(2)(a) to (c);
- (b) failed to comply with a duty under the Regulations;
- (c) failed to comply with a condition of the licence; or
- (d) failed to achieve Level C compliance with the Code.

*[Section 14 repealed and replaced by 2017 : 50 s. 5 effective 12 January 2018 EXCEPT Sections 14(3) and 14(4)(d) are NOT IN FORCE]*

Licensee intends to cease operations

14A (1) Where the operator of a home intends to cease operating the home, he shall—

- (a) notify the Minister, in writing, of the date on which he intends to cease operating the home; and
- (b) notify the residents of the home, in writing, of the date given under paragraph (a).

## RESIDENTIAL CARE HOMES AND NURSING HOMES ACT 1999

---

(2) The notifications referred to in subsection (1)(a) and (b) shall be given not less than six months before the date on which the operator intends to cease operating the home.

(3) The operator of the home is required to assist in the relocation of the residents of the home, as far as is practicable, upon giving notice to the Minister under subsection (1)(a).

*[Section 14A inserted by 2017 : 50 s. 6 effective 12 January 2018]*

### *Powers of the Minister*

Minister may issue order to operator

14B (1) This section applies where the operator of a home has—

- (a) failed to comply with a requirement under section 9(2)(a) to (c);
- (b) failed to comply with a duty under the Regulations;
- (c) failed to comply with a condition of the licence; or
- (d) failed either to comply with a provision of the Code or failed in some other manner respecting the safety, health, or well-being of the residents of the home.

(2) Where a circumstance referred to under subsection (1) exists, the Minister may, instead of proceeding under section 14(4), 15, 16, 16A, or 16B or under regulation 45 of the Regulations, issue an order under this section.

(3) An order under this section shall—

- (a) specify the requirement, regulation, condition, or provision which the operator has failed to comply with;
- (b) set out the particulars of the failure by the operator;
- (c) direct the operator to—
  - (i) remedy the failing, specifying the manner in which this is to be done; and
  - (ii) take other corrective action, if the Minister considers that corrective action is appropriate;
- (d) specify the date upon which the direction under paragraph (c) is to be complied with;
- (e) notify the operator that the Minister may—
  - (i) attach, with immediate effect, conditions or additional conditions to the operator's licence;
  - (ii) proceed under section 14(4), 15, 16, 16A or 16B or under regulation 45 of the Regulations,if the operator fails to comply with the direction by the date specified; and



RESIDENTIAL CARE HOMES AND NURSING HOMES ACT 1999

---

- (f) notify the operator that—
  - (i) he may appeal the Minister's decision under section 18 of this Act; and
  - (ii) the order has effect, notwithstanding that the Minister's decision may be appealed.

(4) An order issued under this section and a notice attaching conditions under subsection (3)(e)(i) may be given orally, but such order or notice shall be made in writing and served on the operator within 48 hours.

(5) The Minister may issue an order under this section where an inspector has issued a notice to an operator under section 20(5A), or at anytime at the instance of the Minister.

(6) This section applies, with such modifications as may be necessary, where it appears to the Minister that the operator of a home may not comply with a requirement, regulation, condition, or provision of the Code, or may fail in some other manner.

(7) An order issued under this section has effect, notwithstanding that it may be appealed.

*[Section 14B inserted by 2017 : 50 s. 6 effective 12 January 2018]*

Cancellation of licence or variation of conditions

- 15 (1) This section applies where the operator of a home has—
- (a) failed to comply with a requirement under section 9(2)(a) to (c);
  - (b) failed to comply with a duty under the Regulations;
  - (c) failed to comply with a condition of the licence; or
  - (d) failed either to comply with a provision of the Code or failed in some other manner relating to the safety, health or well-being of the residents of the home.

(1A) Where a circumstance referred to in subsection (1) exists, the Minister may, instead of or in addition to proceeding under section 14(4) or under regulation 45 of the Regulations—

- (a) cancel the licence of the home;
  - (b) vary any conditions attached to the licence of the home; or
  - (c) attach conditions, or additional conditions, to the licence of the home.
- (2) Where the Minister proposes to exercise a power under subsection (1A) he shall:
- (a) in writing, inform the operator of the home of the proposal and the reasons for it;
  - (b) give the operator an opportunity to make representations, whether orally or in writing; and

- (c) take into account any representations made under paragraph (b) before a decision is made.
- (3) Where the Minister exercises a power under subsection (1A), he shall—
  - (a) set out the decision in writing and state the reasons for the decision;
  - (b) serve a copy of the decision on the operator.
- (4) Subject to section 18, the decision of the Minister under subsection (1A) has effect on the expiration of 3 months beginning on the date of service of the decision on the operator.
- (5) The operator of the home is required to assist in the relocation of the residents of the home, as far as is practicable, where the licence of the home has been cancelled by the Minister under this section.

*[Section 15 amended by 2017 : 50 s. 7 and s. 16 effective 12 January 2018]*

#### Cancellation or variation in urgent circumstances

- 16 (1) This section applies where the operator of a home has—
- (a) failed to comply with a requirement under section 9(2)(a) to (c);
  - (b) failed to comply with a duty under the Regulations;
  - (c) failed to comply with a condition of the licence; or
  - (d) failed either to comply with a provision of the Code or failed in some other manner,

and it appears to the Minister that as a result of the failure there is a serious risk to the life, health or well-being of the residents in the home.

(1A) Where a serious risk referred to in subsection (1) appears to exist, the Minister may instead of or in addition to proceeding under section 14(4) or under regulation 45 of the Regulations, make an application to a court of summary jurisdiction for an order—

- (a) cancelling the licence of the home;
  - (b) varying any condition attached to the licence of the home; or
  - (c) attaching conditions, or additional conditions, to the licence of the home.
- (2) On an application under subsection (1A), the court may, where it is satisfied that there is a risk referred to in subsection (1), make the order and the order takes effect from the date on which it is made.
- (3) An application under subsection (1A) may be made *ex parte* and shall be supported by a written statement of the reasons for making the application.
- (4) The Minister shall, as soon as is practicable after the making of the order:
- (a) serve notice of the making of the order and its terms on the operator of the home; and

## RESIDENTIAL CARE HOMES AND NURSING HOMES ACT 1999

---

- (b) serve on the operator a copy of the reasons which supported the application for the order.

*[Section 16 amended by 2017 : 50 s. 8 and s. 16 effective 12 January 2018]*

### Appointment of interim operator in urgent circumstances

16A (1) Where it appears to the Minister that a serious risk referred to in section 16(1) exists, the Minister may, instead of proceeding under subsection (1A) of that section, make an application to a court of summary jurisdiction for an order appointing an interim operator for the home.

(2) Subsections (2), (3) and (4) of section 16 apply, with such modifications as may be necessary, in respect of an application or an order made under this section.

(3) An order may be made for a period of up to six months, and may be extended for a further period of six months, on such terms as the court considers appropriate.

(4) Where an order is made under this section the interim operator shall, for the purpose of establishing the orderly operation of the home, exercise the powers and perform the functions and duties of an operator under this Act, the Regulations, and the Code.

(5) The salary or other remuneration of the interim operator shall be paid by the home where an order is made under this section.

*[Section 16A inserted by 2017 : 50 s. 9 effective 12 January 2018]*

### Appointment of interim administrator in urgent circumstances

16B (1) Where it appears to the Minister that a serious risk referred to in section 16(1) exists as a result of a failure on the part of the administrator of a home, the Minister may, instead of proceeding under subsection (1A) of that section, make an application to a court of summary jurisdiction for an order appointing an interim administrator for the home.

(2) Subsections (2), (3), and (4) of section 16 apply, with such modifications as may be necessary, to an application or an order made under this section.

(3) Subsections (3), (4) and (5) of section 16A apply, with such modifications as may be necessary, in respect of an order made under this section.

*[Section 16B inserted by 2017 : 50 s. 9 effective 12 January 2018]*

### *Supplementary Provisions*

#### Surrender of licence

17 Where the Minister cancels the licence of a home under section 15, or a court of summary jurisdiction makes an order cancelling the licence of a home under section 16, the operator of the home shall surrender his licence to the Minister—

- (a) where section 15 applies, immediately on the expiration of the three-month period referred to in section 15(4); or

## RESIDENTIAL CARE HOMES AND NURSING HOMES ACT 1999

---

- (b) where section 16 applies, on the date on which notice of the order is served on the operator.

*[Section 17 repealed and replaced by 2017 : 50 s. 10 effective 12 January 2018]*

### Appeals

18 (1) An operator aggrieved by a decision of the Minister may, within 28 days after the date on which written notice of the decision is given or within such longer period as the court may allow, appeal to a court of summary jurisdiction against that decision.

(1A) An operator aggrieved by a decision of a court of summary jurisdiction under section 16, 16A or 16B may appeal to the Supreme Court against that decision within 28 days of the date on which notice of the decision is served on the operator, or within such longer period as the Court may allow.

(2) On an appeal under this section the court of summary jurisdiction or the Supreme Court, as the case may be, may make such order as it considers appropriate including remitting the matter to the Minister or the court of summary jurisdiction, as the case may be, for determination.

(3) An order under subsection (2) is final.

(4) The practice and procedure to be followed in relation to an appeal under this section are as prescribed by rules of court.

*[Section 18 subsections (1) and (2) repealed and replaced, and subsection (1A) inserted by 2017 : 50 s. 11 effective 12 January 2018]*

### Operation and business of the home

19 (1) The operator of a home shall—

- (a) keep proper records relating to the operation of the home, in respect of such matters as may be prescribed by the Minister;
- (b) keep proper accounting records of the home; and
- (c) prepare annual financial statements,

and shall make such records and statements available to an inspector.

(2) The operator is required to conduct the business of the home in a prudent manner.

*[Section 19 repealed and replaced by 2017 : 50 s. 12 effective 12 January 2018]*

### Inspectors

20 (1) The Minister may, in writing, authorise persons to act as inspectors of homes.

(2) Subject to subsections (3), (4), (5) and (6):

- (a) an inspector may enter and inspect a home which is registered under this Act; and

## RESIDENTIAL CARE HOMES AND NURSING HOMES ACT 1999

---

- (b) where an inspector has reasonable cause to believe that any premises are being used as a home in contravention of section 3(1), he may enter and inspect that home.
- (3) On an inspection under subsection (2), an inspector may inspect records, other than medical records, relating to a resident in a home.
- (4) An inspector shall:
  - (a) give an operator not less than 24 hours notice in writing of his intention to carry out an inspection;
  - (b) where he is asked to do so, produce the document authorising him to inspect the home.
- (5) Notwithstanding subsections (3) and (4), where the Minister is satisfied that it is appropriate so to do—
  - (a) the Minister or an inspector authorised by the Minister for the purpose may inspect medical records relating to a resident in a home; and
  - (b) an inspector may carry out an inspection of a home without giving the notice required by subsection (4)(a).
- (5A) Where an operator has failed to comply with a requirement under section 9(2) (a) to (c), a duty under the Regulations, a condition of the licence, a provision of the Code, or failed in some other manner, an inspector may issue a written notice to the operator setting out—
  - (a) the requirement, regulation, condition, or provision which the operator has failed to comply with; and
  - (b) particulars of the failure by the operator.
- (5B) A notice under subsection (5A) may be given orally, but such notice shall be made in writing and given to the operator within 48 hours.
- (6) The inspector shall, as soon as practicable, make a report in writing to the Minister, and such report shall include any notice given to an operator under subsection (5A) or (5B).

*[Section 20 amended by 2017 : 50 s. 13 and s. 16 effective 12 January 2018]*

### Obstruction an offence

21 A person who obstructs an inspector in the performance of his duties commits an offence and is liable, on conviction by a court of summary jurisdiction, to a fine not exceeding \$500 or to imprisonment for a term not exceeding 6 months or both such fine and term of imprisonment.

### Protection from liability

22 An inspector is not liable for any act done or omitted in good faith and in pursuance of the functions assigned to him under this Act or regulations made under this Act.

## RESIDENTIAL CARE HOMES AND NURSING HOMES ACT 1999

---

### Regulations

23 (1) The Minister may make such regulations as are necessary to give effect to the provisions of this Act including regulations:

- (a) prescribing the qualification which must be attained by specified members of the staff of homes prior to being assigned to specified duties;
- (b) *[repealed by 2017 : 50 s. 14]*
- (c) in relation to the establishment and maintenance of the Register;
- (d) in relation to matters of the home, including the operation of the home, programmes, staffing, facilities, equipment, the premises, and safety;
- (e) in relation to the keeping of records, including accounting records, medical records, staff records, and records of the residents; and
- (f) in relation to the preparation and submission of reports, including statistical reports, and reports on the health, well-being and safety of the residents.

(2) The negative resolution procedure applies to Regulations made under this Act.

*[Section 23 subsection (1) amended by 2017 : 50 s. 14 effective 12 January 2018]*

### Code of Practice

23A (1) The Minister, after consulting with the Chief Medical Officer, may issue a Code of Practice with respect to the care of residents, the operation of a home, and the facilities and premises of the home.

(2) Notwithstanding the generality of subsection (1), the Code may provide for matters relating to—

- (a) a statement of purpose and the objectives of the home;
- (b) the provision of health, personal, and specialised care services;
- (c) admission, discharge, care co-ordination and transfer procedures;
- (d) quality and risk assessments;
- (e) procedures for investigating abuse, complaints, incidents and accidents;
- (f) social care and support services which provide for cultural, spiritual and recreational opportunities;
- (g) informed decision making by residents, and obtaining the consent of residents;
- (h) the protection of residents from abuse;
- (i) the management of inappropriate or unsafe behaviours by residents, including the use of restraints and other restrictive practices;

## RESIDENTIAL CARE HOMES AND NURSING HOMES ACT 1999

---

- (j) the training and duties of staff, and the qualifications, training, duties and supervision of volunteers;
- (k) the facility and equipment design;
- (l) the establishment, maintenance and implementation of written policies and procedures.

(3) The operator of a home shall take account of the Code issued by the Minister.

(4) The Minister shall publish a draft of the Code or a draft of any amendment to the Code on the website, and in such other manner as he considers appropriate, and shall invite representations to be made by operators, administrators, and health care professionals, and take such representations into consideration before issuing or amending the Code.

(5) The Statutory Instruments Act 1977 does not apply to a Code issued under this section.

*[Section 23A inserted by 2017 : 50 s. 15 effective 12 January 2018]*

### Offences

24 The Minister may create offences in relation to the contravention of Regulations and prescribe penalties therefor.

### Proceedings

25 (1) A proceeding for an offence in contravention of this Act or regulations made under this Act may be instituted by the Minister.

(2) The consent, in writing, of the Director of Public Prosecutions is required for prosecutions.

*[Section 25 amended by 2017 : 50 s. 15 effective 12 January 2018]*

### Act binds Crown

26 This Act binds the Crown.

### *Final Provisions*

### Consequential amendments

27 The enactments set out in column 1 of the Schedule are amended in the manner specified in column 2 of that Schedule.

### Savings and transitional

28 (1) Subject to subsection (2), any licence, certificate or permission, by whatever name called, which, in relation to any residential home is in force immediately before the date of coming into operation of this Act ("commencement date") has effect from the commencement date as if granted under this Act.

## RESIDENTIAL CARE HOMES AND NURSING HOMES ACT 1999

---

(2) A person who, immediately before the commencement date, was operating a residential home or other such establishment to which this Act applies may continue to operate that home or establishment under this Act:

- (a) during the period of 6 months beginning next after the commencement date; and
- (b) if within that period application is made under section 7(1) for registration, until that application is finally disposed of or withdrawn.

### Commencement

29 This Act comes into operation on a day appointed by the Minister by notice published in the Gazette.



RESIDENTIAL CARE HOMES AND NURSING HOMES ACT 1999

---

SCHEDULE

(section 27)

| Column 1   | Column 2   |
|--|--|
| Section 2 of the Bermuda Nursing Association Act 1957:         | delete subsection (1)(b) and sub-stitute:<br>“(b) establish and operate nursing homes under the Residential Care Homes and Nursing Homes Act 1999”.  |
| Section 1 of the Registration (Births and Deaths) Act 1949:    | (a) delete from the definition of “nursing home” the words “under the Public Health Act 1949;” and substitute the words “registered under the Residential Care Homes and Nursing Homes Act 1999;”<br><br>(b) insert next after the definition of “register” the following definition:<br>” “residential care home” means a residential care home registered under the Residential Care Homes and Nursing Homes Act 1999;”. |
| Section 6(2) of the Registration (Births and Deaths) Act 1949: | insert next after the word “hospital” wherever they appear the words “, residential care home”.  |
| Section 2 of the Immature Spirits Restriction Act 1921:        | insert next after the word “hospital” the words “, residential care home”.   |
| Section 14 of the Spirits Act 1890:                            | insert next after the word “hospital” the words “, residential care home”.   |
| Section 103(1)(b) of the Public Health Act 1949:               | delete the words “nursing home”.   |
| Section 161 of the Public Health Act 1949:                     | (a) delete the definition of “nursing home”; and<br>(b) in the definition of “maternity home”, insert next after the word “children” the words “, but does not include any hospital or other premises maintained or controlled by any authority or other body constituted by any Act”.   |
| Section 162 of the Public Health Act 1949:                     | (a) in the heading to the section, delete the words “nursing home” and substitute the words “maternity home”; and  |

RESIDENTIAL CARE HOMES AND NURSING HOMES ACT 1999

---

- (b) in subsection (1), delete the words “nursing home” wherever they appear and substitute therefor the words “maternity home”.
- Section 163 of the Public Health Act 1949:
- (a) in the heading to the section, delete the words “nursing homes” and substitute the words “maternity homes”;
- (b) in subsection (1), delete the words “nursing homes” and substitute the words “maternity homes”;
- (c) in subsection (2)(a):
- (i) delete the words “nursing homes” and substitute the words “maternity homes”;
- (ii) in subparagraph (i), delete the words “nursing home” and substitute the words “maternity home”;
- (iii) in subparagraph (ii), delete the words “nursing home” and substitute the words “maternity home”;
- (d) in subparagraph (2)(e), delete the words “nursing homes” and substitute the words “maternity homes”; and
- (e) in subsections (3) and (4), delete the words “nursing home” wherever they appear and substitute the words “maternity home”.
- Section 164 of the Public Health Act 1949:
- (a) in the heading to the section, delete the words “nursing homes” and substitute the words “maternity homes”;
- (b) delete the words “nursing home” wherever they appear in the section and substitute the words “maternity home”.
- Regulation 2 of the Census Regulations 1991:
- delete from the definition of “institution” the words “home for the aged, the sick or destitute” and substitute the words “residential care home, a nursing home or a home for the destitute,”.
- Regulation 1 of the Misuse of Drugs Regulations 1973:
- (a) delete from the definition of “nursing home” the words “under the Public Health Act 1949 [*title 11 item 1*]” and

RESIDENTIAL CARE HOMES AND NURSING HOMES ACT 1999

---

substitute the words “under the Residential Care Homes and Nursing Homes Act 1999;”

(b) insert next after the definition of “register” the following definition:

” “residential care home” means a residential care home registered under the Residential Care Homes and Nursing Homes Act 1999;”

Regulation 7(3)(c) of the Misuse of Drugs Regulations 1973: insert next after the word “hospital” the words “, residential care home”.

Regulation 9(4)(b) of the Misuse of Drugs Regulations 1973: insert next after the word “hospital” the words “, residential care home”.

Regulation 10(2) of the Misuse of Drugs Regulations 1973: insert next after the word “hospital” the words “, residential care home”.

Regulation 13(4)(b) of the Misuse of Drugs Regulations 1973: insert next after the word “hospital” the words “, residential care home”.

The Schedule to the Government Fees Regulations 1976: insert next after Head 49 the following new Head:

“Head 49A  
Residential Care Homes and Nursing Homes  
Act 1999

Issuing a registration  
certificate under  
section 13: §75”.

[Assent Date: 23 August 1999]

[Operative Date: 27 April 2001]

---

*[Amended by:*

2017 : 50]