



New South Wales

Youth and Community Services Regulation 2010

under the

Youth and Community Services Act 1973

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Youth and Community Services Act 1973*.

PETER PRIMROSE, MLC
Minister for Disability Services

Explanatory note

The object of this Regulation is to remake, with minor amendments, the *Youth and Community Services Regulation 2005* which is repealed on 1 September 2010 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation includes new requirements for licensees and licensed managers of residential centres for handicapped persons with respect to the administration of prescription medication, ensuring that at least one member of the staff on duty holds first aid qualifications, providing to residents opportunities to participate in activities in the community and information about support services.

This Regulation makes provision with respect to the following:

- (a) the obligations on licensees and licensed managers in relation to residential centres including the standards to be observed and the facilities to be provided, the qualifications and experience of staff and the making and keeping of records,
- (b) the forms to be used for an application for a licence and for the Minister's consent to the replacement of a licensed manager by another person,
- (c) savings and formal matters.

This Regulation is made under the *Youth and Community Services Act 1973*, including sections 11 (1), 14 (1) and 32 (the general regulation-making power).

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Youth and Community Services Regulation 2010

under the

Youth and Community Services Act 1973

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Youth and Community Services Regulation 2010*.

2 Commencement

This Regulation commences on 1 September 2010 and is required to be published on the NSW legislation website.

Note. This Regulation replaces the *Youth and Community Services Regulation 2005* which is repealed on 1 September 2010 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

chief executive means the person holding the position of chief executive of Ageing, Disability and Home Care, Department of Human Services or, in the absence of such a position, the Director-General of the Department of Human Services.

resident means a handicapped person residing at licensed premises.

the Act means the *Youth and Community Services Act 1973*.

(2) In this Regulation, a reference to a Form is a reference to a Form set out in Schedule 1.

(3) Notes included in this Regulation do not form part of this Regulation.

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Clause 4 Youth and Community Services Regulation 2010

Part 2 Obligations of licensees and managers

Part 2 Obligations of licensees and managers

4 Licensees and managers to comply with Part

- (1) This Part sets out requirements that licensees and licensed managers of licensed premises are required to comply with in respect of:
 - (a) the standards to be observed, and facilities to be provided, to ensure the health, comfort, safety and proper care of handicapped persons residing at the premises, and
 - (b) the qualifications and experience of persons employed at the premises, and
 - (c) the records that must be made and kept in relation to the premises.
- (2) A licensee of licensed premises who fails to comply with a requirement contained in this Part with respect to the licensed premises is guilty of an offence.
Maximum penalty: \$500.
- (3) A licensed manager of licensed premises who fails to comply with a requirement contained in clause 13, 14, 15, 18 or 19 with respect to the licensed premises is guilty of an offence.
Maximum penalty: \$500.

5 Sleeping facilities

Each resident must be provided with the following:

- (a) a bed that is for the use of that resident only and is placed at least 75 centimetres from the side of any other bed and 90 centimetres from the head or foot of any other bed,
- (b) a mattress that is suited to the bed and is clean and comfortable,
- (c) bed clothing and linen that is suited to the bed and is clean, in good repair and changed weekly (or more frequently if necessary to maintain cleanliness),
- (d) if necessary, absorbent or waterproof bed sheets,
- (e) a bed-side cabinet that can be locked by the resident.

6 Clothing and toiletries

Each resident must:

- (a) have a supply of personal clothing and footwear that is adequate to allow for laundering and repair, and
- (b) be encouraged to wear clothing and footwear suited to climate and seasonal conditions, and

- (c) be provided with a toothbrush, toothpaste, soap, toilet paper and a supply of bath towels and face washers that is adequate to allow for laundering.

7 Meals

Each resident must be provided with:

- (a) meals of adequate variety, quality and quantity served each day at times that are appropriate and generally acceptable to both residents and the management of the licensed premises, and
- (b) meals that accommodate any special dietary requirements of the resident, and
- (c) access to adequate refreshments outside of meal times.

8 Recreation

Each resident must have access to a television, radio, books, games and a sofa and be given the opportunity to participate in activities in the community.

9 Personal storage space

- (1) Each resident must be provided with the following:
 - (a) wardrobe space for the storage of personal clothing and belongings,
 - (b) a container for the storage of personal laundry,
 - (c) a towel rail of a size that enables the drying and storage of towels and face washers.
- (2) Each item specified in subclause (1) must be in a location that is convenient for the use of that item by the resident.

10 General storage space

- (1) The licensed premises must have shelving and cupboard space that is appropriate for the storage of the following:
 - (a) recreation and education supplies,
 - (b) linen,
 - (c) food,
 - (d) cooking and eating utensils,
 - (e) luggage,
 - (f) cleaning materials,
 - (g) outdoor equipment.

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Part 2 Obligations of licensees and managers

- (2) Food and cooking and eating utensils must not be stored together with any other types of items.

11 Medication

- (1) Any medications administered at the licensed premises must be administered in accordance with any relevant instructions from a health practitioner.
- (2) Written directions from any medical practitioner who prescribes a resident with psychotropic PRN medication must be obtained. The written directions must be kept with a file relating to the resident and must contain the following details:
- (a) the circumstances under which the medication may be given to the resident,
 - (b) the procedure to be followed for administration of the medication,
 - (c) the circumstances under which a further dose may be administered and the required interval between doses,
 - (d) the maximum dose that may be given,
 - (e) the circumstances under which a medical practitioner should be contacted in relation to the administration of the medication.
- (3) A register of PRN medication administration containing the following information must be maintained:
- (a) the name and dosage of any PRN medication administered to a resident and the name of that resident,
 - (b) the date and time of administration of the medication,
 - (c) the reason for administration of the medication,
 - (d) the resident's response to administration of the medication,
 - (e) the name and signature of the person who administered the medication.
- (4) Subject to the other requirements of this clause, any prescription medication of a resident:
- (a) must, if it is practicable to do so, be separated by a registered pharmacist into individual doses in a blister pack and be clearly marked so as to identify the resident, and
 - (b) must be administered directly to the resident and a record of that administration be retained.
- (5) In this clause:
PRN medication means medication that is given when required according to the resident's needs.

12 Safety and health

- (1) A register containing the dates of any fire evacuation drills carried out at the licensed premises must be maintained.
- (2) Each resident must be supplied with such medical (including mental health) and dental treatment as is necessary in a timely manner.
- (3) Each resident must receive assistance in accessing any health services that the resident requires or wishes to access.
- (4) Any medical treatments carried out at the licensed premises must be carried out in accordance with any relevant instructions from a health professional.
- (5) The person responsible for the resident (within the meaning of section 33A of the *Guardianship Act 1987*) must be notified as soon as possible of any serious accident or illness suffered by the resident.
- (6) An effective infection control program must be maintained at the licensed premises.
- (7) There must be a suitable and fully stocked first aid kit at the licensed premises and at least one member of the staff on duty must hold qualifications (of a type approved by the chief executive) in the administration of first aid.
- (8) All first aid equipment, medicine, drugs and other substances potentially harmful to residents must be stored and secured so as to prevent access by any resident (except in relation to first aid equipment, medicine, drugs and other substances managed by the resident). All first aid equipment, medicine, drugs and other substances potentially harmful to residents that are managed by a resident must be secured so as to prevent access by any other resident.
- (9) In this clause:
health service has the same meaning it has in the *Health Administration Act 1982*.

13 Residents not to be abused or neglected

- (1) Residents must not be subject to abuse or neglect.
- (2) For the purposes of this clause, *abuse or neglect*, in relation to a resident, means any one or more of the following:
 - (a) any act against the resident that constitutes a criminal offence under the *Crimes Act 1900*,
 - (b) misconduct that could adversely affect the health, comfort, safety or proper care of the resident,

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Part 2 Obligations of licensees and managers

- (c) derogatory, obscene or threatening conduct or language against, or towards, the resident,
- (d) unauthorised use of the resident's property,
- (e) unlawful or excessive physical or chemical restraint techniques used on the resident,
- (f) failure to ensure the resident has adequate food, clothing, shelter, health care and supervision.

14 Protection of financial affairs of residents

- (1) A receipt for any money received from or on behalf of a resident (including details of the purpose of the receipt of money or payment) must be issued to the resident and a copy of all such receipts kept.
- (2) Each resident must be given support so that the resident has the opportunity to independently operate his or her bank account and manage his or her financial affairs.
- (3) In the event that a resident is unable to operate his or her bank account or manage his or her financial affairs, the resident must be given support in arranging for such assistance as is required to operate the account or manage the affairs (including support in making an application to the Guardianship Tribunal for a financial management order where necessary).
- (4) A resident must not be assisted by the licensee, licensed manager or other member of staff of the licensed premises in operating his or her bank account or managing his or her financial affairs.

15 Protection of interests of residents

- (1) Each resident's need for privacy and confidentiality must be met.
- (2) Each resident must be given the opportunity to make decisions about daily events and activities that he or she participates in (provided that such decisions do not unreasonably infringe on the health, comfort, safety or proper care of other residents).
- (3) A resident must be provided with information on support services, advocacy services or other service or information providers (such as legal service providers and disability rights and support organisations).
- (4) A resident who wishes to access any such service must be assisted (and not obstructed in any way) in accessing those services (whether the service provider consults with the resident at the licensed premises or any other place outside of the licensed premises).
- (5) Visits to the licensed premises by a resident's family and friends, and communications between a resident and his or her family and friends,

must not be obstructed in any way (unless in compliance with a direction from a person who has authority to make such a direction or to protect the health or safety of a resident).

- (6) Friendships between residents must not be obstructed in any way (unless in compliance with a direction from a person who has authority to make such a direction or to protect the health or safety of a resident).
- (7) A resident must not be required to undertake tasks of a domestic nature that are included in the resident's board and lodging fee. A resident may, however, volunteer to undertake such tasks.

16 Procedure for dealing with complaints

- (1) Any complaint received relating to the provision of services at the licensed premises must be dealt with fairly, promptly and confidentially.
- (2) A person making a complaint must not suffer any retribution as a result of making the complaint (such as discharge from the premises or restricted access to the premises or a resident).

17 Chief executive to be notified of certain matters

- (1) The chief executive must be notified of any sexual assault, or alleged sexual assault, of a resident within 24 hours of the licensee of the licensed premises becoming aware of the incident or allegation.
- (2) The chief executive must be notified of any criminal act, or alleged criminal act, of the licensed manager or any member of staff that is relevant to the operation of the licensed premises within 48 hours of the licensee of the licensed premises becoming aware of the incident or allegation.
- (3) The chief executive must be notified of any misconduct of the licensed manager or any member of staff that could adversely affect the health, comfort, safety or proper care of residents within 48 hours of the licensee of the licensed premises becoming aware of the incident or allegation.

18 Staffing arrangements

- (1) An adequate number of persons must be employed as staff at the licensed premises.
- (2) An adequate number of staff must be on duty at the licensed premises at all times.
- (3) The staff employed at the premises must have the knowledge and skills required to exercise the functions that they are employed to exercise and must be competent in exercising those functions.

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Part 2 Obligations of licensees and managers

- (4) The staff employed at the premises must have appropriate knowledge and skills in the provision of residential services.
- (5) All staff employed at the premises and exercising functions relating to the care of residents must be fit and proper persons to be concerned in the care of residents.

19 Screening tool for entry to licensed premises

- (1) The following persons must be assessed in accordance with a screening tool, and must be determined to be suitable to become a resident, before being permitted to reside at the licensed premises:
 - (a) a person who has not previously resided at a residential centre for handicapped persons,
 - (b) a person who has been absent from any licensed premises for 2 months or more,
 - (c) a person who has previously been admitted to a psychiatric hospital, an aged care facility or a rehabilitation centre (regardless of whether the person resided at licensed premises before the admission).
- (2) A resident whose health or psychiatric condition significantly deteriorates after being assessed in accordance with a screening tool must be assessed in accordance with the screening tool following the deterioration. If it is determined that the resident is not suitable to remain a resident, arrangements must be made for the relocation of the resident to appropriate alternative accommodation within one month of the determination.
- (3) A register containing the following details must be maintained:
 - (a) whether each resident has been assessed in accordance with a screening tool,
 - (b) the date of any assessment,
 - (c) the name and contact details of the person who conducted the assessment.
- (4) The register must be in the form approved by the chief executive and must be available at the licensed premises for inspection by an officer (within the meaning of section 25 of the Act).
- (5) Subclause (1) does not apply if:
 - (a) a person requires emergency accommodation (because of a natural disaster or where the person's health, safety or welfare may be adversely affected if the person is not permitted to stay at the premises), and

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- (b) the Department is notified of the person's presence at the licensed premises within one business day of the person being permitted to stay at the premises, and
 - (c) steps to arrange an assessment in accordance with a screening tool are taken within one business day of the person being permitted to stay at the premises.
- (6) In this clause:
- screening tool** means an assessment tool that is in a form approved by the chief executive and that contains criteria to be used to determine whether a person is suitable to be a resident at a residential centre for handicapped persons (having regard to the health, comfort, safety and proper care of the person and other residents).

20 Resident information register

A register containing the following information in relation to each resident at the licensed premises must be maintained:

- (a) name of resident,
- (b) date of birth of resident,
- (c) resident's pensioner concession card number (or number and type of any other entitlement card issued by the Commonwealth or a State Government),
- (d) resident's medicare number,
- (e) name and address of the person responsible for the resident (within the meaning of section 33A of the *Guardianship Act 1987*),
- (f) name and telephone number of resident's doctor,
- (g) any serious illnesses suffered by the resident,
- (h) any sensitivities or allergies to any medication suffered by the resident,
- (i) any assistance in taking or administering any medication required by the resident,
- (j) any assistance with personal care needs required by the resident,
- (k) any special dietary requirements of the resident,
- (l) the legal guardian or other person responsible for the resident,
- (m) whether the financial affairs of the resident are managed by the resident or any other person and the name of any person managing the resident's financial affairs.

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Clause 21 Youth and Community Services Regulation 2010

Part 3 Miscellaneous

Part 3 Miscellaneous

21 Form of application for licence

For the purposes of section 11 (1) of the Act, the prescribed form of application for a licence under Part 3 of the Act is Form 1.

22 Form of application for change of licensed manager

For the purposes of section 14 (1) of the Act, the prescribed form of application for the Minister's consent to the replacement of the licensed manager by another person is Form 2.

23 Savings

Any act, matter or thing that, immediately before the repeal of the *Youth and Community Services Regulation 2005*, had effect under that Regulation continues to have effect under this Regulation.

Schedule 1 Forms

(Clause 3 (2))

Form 1 Application for licence

(Clause 21)

(Youth and Community Services Act 1973)

Disability Licensing Adviser:

Address:

Phone:

1 Person or business applying for a licence to control a residential centre

Name of the organisation, business or proprietor/s applying for a licence:

Registered address:

Postal address [*“as above”, if same*]:

Telephone:

Fax:

2 Premises to be licensed

Name [*if applicable*]:

Address and postcode of the premises to be licensed:

Telephone:

3 Owners of premises

Name and address of the owner/s of the premises:

4 Person to conduct the centre (Licensed Manager)

Name of the person/s to be authorised to have day to day management of the premises.

Name:

Qualifications:

Suitability of the nominated Licensed Manager

- (1) The proposed licensee must enclose information explaining why the person nominated as manager is considered to be a person with suitable character, experience and competence to manage a centre accommodating persons with disabilities.
- (2) The person nominated as manager should enclose the names and contact numbers of two persons/referees who can be contacted by the

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Department of Human Services regarding the nominated manager's suitability to manage a residential centre for people with disabilities.

5 The maximum number to be accommodated

The maximum number of persons to be accommodated in the residential centre according to the requirements of the *Youth and Community Services Act 1973*.

Maximum number:

6 Compliance with the requirements of the local Council

The applicant must provide the Department of Human Services with the following:

- (1) A copy of Council's development consent for the premises nominated in this application.
- (2) A copy of any orders given by the Council currently applying to those premises.

7 List of documents to be supplied

The following documents and information must be supplied with your application before it will be processed:

- (1) A floor plan, to scale, showing the dimensions and use of each room.
- (2) A copy of the site plan.
- (3) A full explanation of the services to be provided at the premises.
- (4) A written "ENTRY" and "EXIT" criteria for residents using this service.
- (5) A written list of what you will be expecting from residents using this service, by way of behaviour, tasks, needs and the like.
- (6) A copy of the "Menu" for a two or four week period.
- (7) A complete list of staff positions, job descriptions, hours and days of work.
- (8) Information requested in item 4 relating to the person nominated to be approved as the Licensed Manager.
- (9) A written list of the criteria used by you when appointing staff, to ensure that staff have adequate knowledge and understanding of the needs of people with disabilities and the ability to deal with these residents in a fair, just and appropriate manner.
- (10) A copy of Council's development consent for the premises, as requested in item 6 (1).
- (11) A copy of any orders currently applying to the premises as requested in item 6 (2).
- (12) A list of all proposed fees and charges for services.
- (13) If applicable, a copy of the constitution, memorandum of articles or the like of the organisation or business applying for the licence.

- (14) If applicable, a complete list of directors of the company.
- (15) If applicable, a copy of the lease relating to the premises.
- (16) Criminal record checks for the person applying for the licence, the nominated licensed manager and each staff member who is to exercise functions relating to the care of residents.

8 Name and signature of person completing this application

Name [*please print*]:

Position:

Signature:

Date:

Form 2 Application for a change of licensed manager

(Clause 22)

(Youth and Community Services Act 1973)

Disability Licensing Adviser:

Address:

Phone:

1 Licensee

Name of the licensee:

Registered address:

Postal Address [*“as above”, if same*]:

Telephone:

Fax:

2 Licensed premises

Name [*if applicable*]:

Address and postcode of the premises to be licensed:

Telephone:

3 Person nominated to conduct the centre (Licensed Manager)

Name of the person/s to be authorised to have day to day management of the premises.

(1) Name:

Qualifications:

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Schedule 1 Forms

- (2) Suitability of the Licensed Manager
 - (a) The licensee must enclose information explaining why the person nominated as manager is considered to be a person with suitable character, experience and competence to manage a centre accommodating persons with disabilities.
 - (b) The person nominated as manager should enclose the names and contact numbers of two persons/referees who can be contacted by the Department of Human Services regarding the nominated manager's suitability to manage a residential centre for people with disabilities.

4 List of documents to be supplied

The following documents and information must be supplied with your application before it will be processed:

- (1) Information requested in item 3 (2) relating to the person nominated to be approved as the Licensed Manager.
- (2) A criminal record check of the person nominated as manager.

5 Name and signature of person completing this application

Name [*please print*]:

Position:

Signature:

Date: