

# Boarding Houses Regulation 2013

[2013-332]



New South Wales

## Status Information

### Currency of version

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Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Staged repeal status**

This legislation is currently due to be automatically repealed under the [Subordinate Legislation Act 1989](#) on 1 September 2024

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Boarding Houses Regulation 2013



New South Wales

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Boarding Houses Regulation 2013*.

### 2 Commencement

This Regulation commences on 1 July 2013 and is required to be published on the NSW legislation website.

### 3 Definitions

(1) In this Regulation—

**additional needs resident**, in relation to an assisted boarding house, means a resident of the boarding house who is a person with additional needs.

**approved manager** has the same meaning as in Part 4 of the Act.

**authorised boarding house** has the same meaning as in Part 4 of the Act.

**authorised operator** of an authorised boarding house has the same meaning as in Part 4 of the Act.

**boarding house authorisation** has the same meaning as in Part 4 of the Act.

**boarding house licence** has the same meaning as in Part 4 of the Act.

**Note—**

A boarding house licence is a licence granted for an assisted boarding house under Subdivision 2 of Division 2 of Part 4 of the Act.

**business day** means any day other than a Saturday, Sunday or a public holiday throughout New South Wales.

**compliance notice** has the same meaning as in Part 4 of the Act.

**Note—**

A compliance notice is a notice issued by the Director-General under section 79 of the Act to a person to

remedy a contravention of a provision of Part 4 of the Act or regulations made for the purposes of that Part.

**Department** means the Department of Communities and Justice.

**former licensed residential centre** means premises that were a residential centre for handicapped persons licensed under the former [Youth and Community Services Act 1973](#).

**guardian** of a resident means a person who is the guardian (within the meaning of the [Guardianship Act 1987](#)) of the resident.

**interim permit** has the same meaning as in Part 4 of the Act.

**Note—**

An interim permit is a permit granted for an assisted boarding house under Subdivision 3 of Division 2 of Part 4 of the Act.

**licensed boarding house** has the same meaning as in Part 4 of the Act.

**Note—**

Section 35 (1) of the Act defines **licensed boarding house** to mean the premises to which a boarding house licence relates.

**manager approval** has the same meaning as in Part 4 of the Act.

**Note—**

A manager approval is an approval granted by the Director-General under section 60 of the Act that authorises its holder to act as the manager of a specified assisted boarding house.

**medication** means any substance or preparation given with the intention of preventing, diagnosing, curing, controlling or alleviating disease or otherwise enhancing the physical or mental welfare of a person.

**non-prescribed medication** means medication other than prescribed medication.

**person responsible** for a resident means a person who is responsible for the resident within the meaning of Part 5 of the [Guardianship Act 1987](#).

**Note—**

Under section 33A of the [Guardianship Act 1987](#) a person responsible for another person includes the other person's guardian, but only if the order or instrument appointing the person as guardian provides for the person to exercise the function of giving consent to the carrying out of medical or dental treatment.

**prescribed medication** means medication that has been prescribed for a person's use by—

- (a) a medical practitioner, or
- (b) a nurse practitioner in accordance with the medication formulary approved by the Director-General of the Ministry of Health.

**relevant approval** means—

- (a) a manager approval, or
- (b) an authority to be a licensed manager in force at any time under the former *Youth and Community Services Act 1973*.

**relevant authorisation** means—

- (a) a boarding house authorisation, or
- (b) a licence or permit in force at any time under the former *Youth and Community Services Act 1973*.

**screening tool**—see clause 14.

**serious criminal offence** has the same meaning as in Part 4 of the Act.

**staff member** of an assisted boarding house has the same meaning as in Part 4 of the Act.

**the Act** means the *Boarding Houses Act 2012*.

**Note—**

The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

- (2) Any other term or expression used in this Regulation that is defined for the purposes of Part 4 of the Act has the same meaning as in Part 4 of the Act.

**Note—**

Section 4 (1) of the Act also defines certain other terms and expressions used in this Regulation, including the following—

***assisted boarding house***

***Commissioner***

***Director-General***

***general boarding house***

***manager***

***person with additional needs***

***registrable boarding house***

***regulated assisted boarding house***

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

## Part 2 Registration of boarding houses

### 4 Additional particulars to be notified about registrable boarding houses

- (1) The following additional particulars are prescribed for the purposes of section 9 (1) (i) of the Act—
  - (a) the telephone number and email address, if any, of the manager (if any) of the registrable boarding house,
  - (b) the telephone number, email address and website address, if any, of the registrable boarding house,
  - (c) the local government area in which the registrable boarding house is located,
  - (d) the telephone number and email address, if any, of each proprietor of the registrable boarding house,
  - (e) the maximum number of fee-paying residents who can be accommodated in the registrable boarding house,
  - (f) the method or methods for calculating charges for fee-paying residents and the fee amounts payable,
  - (g) the methods of payment used by fee-paying residents (including cash payments, credit cards, cheques, direct bank debits, money orders, BPay and Australia Post),
  - (h) the kinds of services provided to any residents (including accommodation, meals and personal care services),
  - (i) whether the registrable boarding house has special provisions for physical access and, if so, the kind of provisions provided,
  - (j) the numbers of residents who fit into each of the following categories (to the extent that it is reasonably practicable to ascertain this information)—
    - (i) males,
    - (ii) females,
    - (iii) elderly persons (that is, persons 60 years of age or more),
    - (iv) students of tertiary institutions,
    - (v) persons who are mentally ill persons within the meaning of the [Mental Health Act 2007](#),
    - (vi) persons who have a disability (however arising and whether or not of a chronic episodic nature) that is attributable to an intellectual, psychiatric,

sensory, physical or like impairment or to a combination of such impairments,

(vii) persons with significant health problems,

(viii) persons needing assistance with daily tasks and personal care.

(2) In this clause—

**fee-paying resident** means a person who resides at the registrable boarding house for a fee or reward.

## **5 Additional information on Register of Boarding Houses that may be published on internet for public access**

Particulars of any enforcement action taken in respect of registrable boarding houses or their proprietors or staff (including any action taken under Part 4 of the Act) that are recorded in the Register of Boarding Houses are prescribed for the purposes of section 14 (1) (d) of the Act.

## **Part 3 Assisted boarding houses**

### **Note—**

This Part makes provision with respect to assisted boarding houses. An authorised boarding house is an assisted boarding house for which a licence or interim permit has been granted under Part 4 of the Act. This Part does not apply to general boarding houses.

## **Division 1 Introductory**

### **6 Establishing that individual is a person with additional needs**

- (1) The Director-General may, by order published in the Gazette, approve kinds of matters or circumstances (or combinations of matters or circumstances) that may be used to establish that an individual is a person with additional needs.
- (2) The kinds of matters or circumstances (or combinations of matters or circumstances) approved under this clause must not be inconsistent with the requirements of the definition of **person with additional needs** in section 36 (1) of the Act.
- (3) A person or body may, for the purposes of the Act, use the existence or presence of kinds of matters or circumstances (or a combination of matters or circumstances) approved under this clause to establish that an individual is a person with additional needs.

## **Division 2 Applications for authorisations and approvals**

### **7 Additional information to be provided by applicants**

- (1) An application for a boarding house authorisation or manager approval must be accompanied by—

- (a) in the case of an application for a boarding house authorisation—information to demonstrate to the satisfaction of the Director-General that the applicant—
    - (i) has the capacity and experience to provide appropriate accommodation and services to additional needs residents of assisted boarding houses, and
    - (ii) has the capacity to exercise overall supervision of an assisted boarding house, and
  - (b) particulars about any relevant authorisation or relevant approval held by the applicant or a close associate of the applicant that has been previously cancelled, revoked or suspended or a previous application for such an authorisation or approval that has been refused.
- (2) The information required to be provided under this clause is additional to the other information required to be provided under the Act.

## **8 Additional probity checks for licence applications**

Each of the following additional probity checks is prescribed for the purposes of section 45 (2) (f) of the Act—

- (a) a check as to any previous enforcement action taken under the Act or former *Youth and Community Services Act 1973* against the applicant or close associate of the applicant in connection with a relevant authorisation that is or was held by the applicant or close associate,
- (b) a check of any referees nominated by the applicant for the boarding house licence.

### **Note—**

Section 45 (2) of the Act also requires the following application probity checks to be carried out in relation to an application for a boarding house licence for an assisted boarding house—

- (a) criminal record checks of the applicant, a proposed approved manager and any proposed staff members of the proposed licensed boarding house,
- (b) if the applicant is not a natural person—criminal record checks of any person involved in the control or management of the applicant (such as a chief executive officer, director or majority shareholder of a corporation),
- (c) if the applicant makes the application on behalf of an unincorporated body—criminal record checks of any partner or member of the management committee or other office holder of the body,
- (d) a criminal record check of any other close associate of the applicant that may be required by the Director-General,
- (e) a check of the financial capacity of the applicant and the applicant's close associates to operate the

proposed assisted boarding house.

## **9 Additional grounds for refusing authorisations and manager approvals**

- (1) **Boarding house licences** The Director-General may refuse to grant a boarding house licence to an applicant if—
- (a) a previous application by the applicant for a relevant authorisation was refused, or
  - (b) a relevant authorisation previously held by the applicant was cancelled, revoked or suspended, or
  - (c) the Director-General is satisfied that the applicant would not, if granted the relevant authorisation, be able to comply with any condition that would be imposed on the authorisation under Division 4.

### **Note—**

Section 46 (2) and (3) of the Act provides for other grounds on which an application for a boarding house licence may or must be refused.

- (2) **Interim permits** The Director-General may refuse to grant a interim permit to an applicant if—
- (a) a previous application by the applicant for a relevant authorisation was refused, or
  - (b) a relevant authorisation previously held by the applicant was cancelled, revoked or suspended, or
  - (c) the Director-General is of the opinion that—
    - (i) the applicant or a close associate of the applicant is not a suitable person to be involved in the management or operation of an assisted boarding house, or
    - (ii) the applicant does not have (or is unlikely to have) the financial capacity to operate the proposed licensed boarding house, or
    - (iii) the applicant or a close associate of the applicant has committed a serious criminal offence.
- (3) **Manager approvals** The following grounds are prescribed for the purposes of section 61 (2) (b) of the Act—
- (a) a previous application by the applicant for a relevant approval was refused, or
  - (b) a relevant approval previously held by the applicant was cancelled, revoked or suspended, or
  - (c) the applicant or a close associate of the applicant has committed a serious criminal offence.

**Note—**

Section 61 (2) (a) of the Act also provides that the Director-General may refuse to grant a manager approval if the Director-General is of the opinion that the applicant is not a suitable person to be involved in the management of an assisted boarding house.

- (4) **Relationship with Act** The grounds specified under this clause are additional to the other grounds provided by the Act for the refusal of an application for a boarding house authorisation or manager approval.

## **Division 3 Revocation of interim permits**

### **10 Additional ground for revocation of interim permits**

- (1) The Director-General may revoke an interim permit if the Director-General is of the opinion that the interim permit holder has contravened any provision of the Act or this Regulation (whether or not the interim permit holder has been convicted of an offence for the contravention).
- (2) The ground specified under this clause is additional to the other grounds provided by the Act for the revocation of an interim permit.

## **Division 4 Prescribed conditions of boarding house authorisations**

### **11 Conditions prescribed for the purposes of section 43 (1) (a) of Act**

The conditions specified in this Division are prescribed for the purposes of section 43 (1) (a) of the Act as conditions of boarding house authorisations.

**Note—**

Section 43 (5) of the Act makes it an offence for an authorised operator of an assisted boarding house to contravene a condition of the boarding house authorisation for the boarding house. The maximum penalty for such an offence is—

- (a) in the case of a corporation—40 penalty units (currently, \$4,400) and in addition, for a continuing offence, 10 penalty units (currently, \$1,100) for each day the offence continues, and
- (b) in any other case—20 penalty units (currently, \$2,200) and in addition, for a continuing offence, 5 penalty units (currently, \$550) for each day the offence continues.

### **12 Conditions relating to standards for authorised boarding houses**

- (1) It is a condition of a boarding house authorisation that the authorised operator ensures that accommodation, staffing and services provided by or at the authorised boarding house are provided in accordance with the standards specified in Schedule 1 that are applicable to the authorised boarding house.
- (2) It is a condition of a boarding house authorisation that is a pre-existing authorised assisted boarding house (within the meaning of clause 5 of Schedule 1) that the requirements of clause 5 (4)–(6) of that Schedule are met.

### **13 Condition relating to notification of presence of young residents**

- (1) It is a condition of a boarding house authorisation that the authorised operator ensures that the Director-General is notified, in accordance with this clause, that a person under 18 years of age is a resident of the authorised boarding house (a **young resident**).
- (2) A notification under this clause must be in writing and contain such particulars as the Director-General may require.
- (3) A notification under this clause must be given—
  - (a) in the case of any person who is a young resident of an authorised boarding house at the time this clause commences—within 14 days after that commencement, or
  - (b) in the case of any person who becomes a young resident of an authorised boarding house after the commencement of this clause—within 7 days after the person begins to reside at the boarding house.

### **14 Condition relating to screening of actual and proposed additional needs residents**

- (1) **Condition** It is a condition of a boarding house authorisation that the authorised operator ensures that—
  - (a) additional needs residents (or proposed additional needs residents) of the authorised boarding house are assessed in accordance with the requirements of this clause, and
  - (b) the Director-General is notified of matters in accordance with the requirements of this clause.
- (2) **Screening of proposed additional needs residents** The following persons must be assessed in accordance with a screening tool before being permitted to reside at the authorised boarding house—
  - (a) a person who has not previously resided at an assisted boarding house or former licensed residential centre,
  - (b) a person who has been absent from any authorised boarding house for 6 months or more,
  - (c) a person who has previously been admitted to a psychiatric or other hospital, an aged care facility or a rehabilitation centre (regardless of whether the person resided at an authorised boarding house before the admission).
- (3) Any such person must not be permitted to reside at the authorised boarding house if, following such an assessment, it is determined that the authorised boarding house is not a suitable residence for the person.

- (4) However, subclauses (1) and (2) do 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 authorised boarding house), and
  - (b) the Director-General is notified of the person's presence at the authorised boarding house within one business day of the person being permitted to stay at the authorised boarding house, 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 authorised boarding house.
- (5) **Re-assessment of additional needs residents in certain circumstances** An additional needs resident must be re-assessed in accordance with a screening tool as soon as reasonably practicable after the occurrence of any of the following—
- (a) a significant deterioration in the physical or mental health of the resident,
  - (b) an increase in the need of the resident for care or support services.
- (6) If it is determined, following any such re-assessment, that the authorised boarding house is no longer a suitable residence for the additional needs resident, arrangements must be made (in consultation with the Department) for the relocation of the resident to appropriate alternative accommodation within one month of the determination.
- (7) **Director-General to be notified of adverse assessments** The Director-General must be notified in writing, within 14 days, if it is determined, in accordance with a screening tool, that—
- (a) the authorised boarding house is not a suitable residence for a proposed additional needs resident, or
  - (b) the authorised boarding house is no longer a suitable residence for an additional needs resident.

**Note—**

See also Part 2 of Chapter 7 of the [Children and Young Persons \(Care and Protection\) Act 1998](#) concerning reporting requirements for homeless children and young persons.

- (8) **Definition** In this clause—

**screening tool** means an assessment tool that is in a form approved by the Director-General and that contains criteria to be used to determine whether an assisted boarding house is suitable as a residence for an additional needs resident (having regard to the health, comfort, safety and proper care of the person and other

residents).

## **15 Conditions relating to provision and display of information**

- (1) It is a condition of a boarding house authorisation that the authorised operator ensures that the information specified in this clause is provided or displayed in accordance with the requirements of this clause.
- (2) A person seeking to become a resident of the authorised boarding house must be provided with information about the following before an occupancy agreement or rental agreement is entered into with the person—
  - (a) the room number of the room that will be allocated,
  - (b) the services that will be provided,
  - (c) the fees payable in connection with residency (including any occupancy fee or rent) and fees for services,
  - (d) any reductions in fees available for work undertaken by the person or in other specified circumstances,
  - (e) the procedures of the boarding house for handling complaints.
- (3) Each of the following must be displayed in a conspicuous position at the boarding house—
  - (a) conditions to which the boarding house authorisation is subject (other than conditions imposed by the Act or this Regulation) where those conditions do not appear in full on the boarding house authorisation,
  - (b) a copy of the rules of the boarding house,
  - (c) an itemised schedule of all standard fees payable in connection with residency (including any occupancy fee or rent) and for services provided at the boarding house,
  - (d) a copy of any current compliance notice issued in relation the boarding house.

### **Note—**

Section 53 of the Act requires the licensee of a licensed boarding house to ensure that a copy of the boarding house licence is displayed in a conspicuous position at the boarding house. Clause 30 makes similar provision if the boarding house authorisation concerned is an interim permit.

- (4) At least one copy each of the Act and this Regulation must be available at the authorised boarding house for use by staff members, residents and visitors.
- (5) In this clause—

**occupancy fee** has the same meaning as in Part 3 of the Act.

#### **16 Condition relating to development of policies**

- (1) It is a condition of a boarding house authorisation that the authorised operator must—
  - (a) develop, maintain and implement policies dealing (in accordance with such guidelines, if any, as may be issued for that purpose by the Director-General from time to time) with each of the following—
    - (i) ethical conduct by staff members,
    - (ii) procedures for handling complaints,
    - (iii) confidentiality of records,
    - (iv) illness, accident and emergency treatment,
    - (v) administration of medication,
    - (vi) infectious diseases,
    - (vii) food and nutrition, and
  - (b) ensure that copies of those policies are available at the authorised boarding house for inspection by staff members, residents and visitors.
- (2) The provisions of any such policy must be consistent with any applicable standards specified by Schedule 1 concerning the matter dealt with by the policy.

**Note—**

The standards specified by Schedule 1 include standards relating to the administration of medication and food and nutrition.

#### **17 Condition relating to staff arrangements**

- (1) It is a condition of a boarding house authorisation that the authorised operator must—
  - (a) ensure that—
    - (i) information concerning staff positions, duties and hours of work at the authorised boarding house is provided to the Director-General at such times and in such circumstances as may be specified in a direction in writing given to the operator by the Director-General, and
    - (ii) the Director-General is given notice in writing of a reduction of staffing hours or the number of staff members at the authorised boarding house within 14 days before the reduction takes effect, and
    - (iii) copies of staff rosters for the authorised boarding house are provided to the Director-General at such times and in such circumstances as may be specified

in a request in writing given to the operator by the Director-General, and

(b) engage staff members, or re-organise existing staffing rosters, duties and hours, in accordance with any direction in writing given to the operator by the Director-General.

(2) A direction for the purposes of subclause (1) (b) that requires additional staff members to be engaged may specify both the number of staff to be engaged and the qualifications they must have.

(3) The Director-General may give a direction for the purposes of subclause (1) (b) that requires additional staff members to be engaged only if the Director-General is satisfied that, having regard to the needs of the additional needs residents of the authorised boarding house, sufficient staff members with suitable qualifications are not available at the boarding house.

#### **18 Condition relating to notification of evictions of additional needs residents**

It is a condition of a boarding house authorisation that the authorised operator ensures that the Director-General is notified that an additional needs resident is being evicted within 3 days after the resident has been issued with an eviction notice or immediately after the resident has been evicted, whichever occurs first.

### **Division 5 Records**

#### **19 Records required to be kept**

(1) The following written records are required for the purposes of section 82 (2) of the Act—

- (a) an additional needs resident personal information register setting out the information specified by clause 20,
- (b) additional needs resident health records of the kind specified by clause 21,
- (c) occupancy agreement records and rental agreement records of the kind specified by clause 22,
- (d) staff information records setting out the information specified by clause 23,
- (e) complaint information records setting out the information specified by clause 24,
- (f) fire safety procedure records setting out the information specified by clause 25.

#### **Note—**

Section 82 of the Act provides that it is a condition of a boarding house authorisation that the authorised operator ensures that the requirements of that section concerning records are complied with. The section also requires an authorised operator to ensure that such records as the regulations require are kept in relation to the boarding house.

- (2) The relevant custodian for a record referred to in subclause (1) must keep the record in a safe and secure area at an authorised location—
- (a) in the case of a record relating to a person who is (or was) an additional needs resident of the assisted boarding house concerned—until the expiry of the period of 7 years after the person ceased to be a resident of the boarding house, or
  - (b) in the case of a record relating to a person who is (or was) a staff member of the assisted boarding house concerned—until the expiry of the period of 7 years after the person ceased to be a staff member of the boarding house, or
  - (c) in the case of any other record—until the expiry of the period of 7 years after the record was made.

Maximum penalty—

- (a) in the case of a corporation—20 penalty units, and
  - (b) in any other case—10 penalty units.
- (3) However, a person cannot be convicted of both an offence against subclause (2) and an offence against section 43 (5) of the Act in respect of the same act or omission.

**Note—**

Section 43 (5) of the Act makes it an offence for an authorised operator of an assisted boarding house to contravene a licence condition, including the condition concerning the keeping of records imposed by section 82 of the Act.

- (4) In this clause—

**authorised location** for a record referred to in subclause (1) means—

- (a) while the assisted boarding house to which the record relates is an authorised boarding house—the premises of the authorised boarding house, or
- (b) after the assisted boarding house to which the record relates ceases to be an authorised boarding house—a place approved by the Director-General.

**relevant custodian** for a record referred to in subclause (1) means—

- (a) while the assisted boarding house to which the record relates is an authorised boarding house—the authorised operator of the boarding house, or
- (b) after the assisted boarding house to which the record relates ceases to be an authorised boarding house—the person who was the authorised operator of the boarding house immediately before it ceased to be an authorised boarding house.

## **20 Additional needs resident personal information register**

- (1) The following information must be recorded in an additional needs resident personal

information register about each additional needs resident of an authorised boarding house in a form approved by the Director-General—

- (a) the full name of the resident (including former or other names of the resident),
- (b) the date of birth of the resident,
- (c) whether a resident has been assessed in accordance with a screening tool as provided by clause 14 and, if so—
  - (i) the date of any assessment, and
  - (ii) the name and contact details of the person who conducted the assessment,
- (d) the resident's pensioner concession card number (or number and type of any other entitlement card issued by the Commonwealth or a State or Territory Government),
- (e) the medicare number by which the resident is covered, and (if known) the name of any health fund that has issued a policy by which the resident is covered,
- (f) the gender of the resident,
- (g) the date on which the resident began to reside in the authorised boarding house,
- (h) the cultural and ethnic identity of the resident and the primary language spoken by the resident,
- (i) a list of the items of personal property belonging to the resident that the resident brought into the authorised boarding house when he or she began to reside there,
- (j) the name and address of the person responsible for the resident,
- (k) if the person referred to in paragraph (j) is the guardian of the resident—details of the duration of the guardianship and of the functions exercisable by the guardian with respect to the resident,
- (l) the name, address and telephone number of the resident's treating medical practitioner or nurse practitioner,
- (m) any serious illnesses suffered by the resident,
- (n) any sensitivities or allergies to any medication suffered by the resident,
- (o) any assistance in taking or administering any medication required by the resident,
- (p) any assistance with personal care needs required by the resident,
- (q) any special dietary requirements of the resident,

- (r) 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.

(2) In this clause—

**health fund** means a private health insurer within the meaning of the *Private Health Insurance Act 2007* of the Commonwealth.

**medicare number** has the same meaning as in section 84 of the *National Health Act 1953* of the Commonwealth.

## 21 Additional needs resident health records

The additional needs resident health records to be kept in relation to the health of each additional needs resident of an authorised boarding house are each of the following—

- (a) any written authorisation for the administration of any medication to the resident by a member of staff, and any medical practitioner's or nurse practitioner's instructions relating to its administration,
- (b) if any medication is administered to the resident on the premises of the boarding house by a member of staff of the boarding house or a medical practitioner or nurse practitioner—
  - (i) the name of the medication, and
  - (ii) the date, time and dosage administered, and
  - (iii) the names and signatures of the persons who checked the dosage and administered the medication,
- (c) any written particulars provided by the resident or a person responsible for the resident advising the authorised operator or manager that the resident suffers from allergies, epilepsy, asthma or any other specified medical condition and of the treatment to be given if the resident appears to be severely physically affected by the condition,
- (d) any written consent to the carrying out of medical treatment on the resident given by a guardian of the resident,
- (e) the nature and circumstances (including the date and time) of any significant injury to the resident or illness of the resident while he or she resides in the authorised boarding house,
- (f) particulars of treatment given to the resident if the resident is injured or becomes ill while he or she resides in the authorised boarding house,
- (g) if the resident dies while he or she resides in the authorised boarding house, the details surrounding the resident's death.

**Note—**

Section 23 of the [Health Records and Information Privacy Act 2002](#) provides that a private sector person is not required to comply with a requirement of Part 4 of that Act if non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under an Act or any other law. Similar provision is made in respect of a number of Health Privacy Principles set out in Schedule 1 to that Act, including in relation to the disclosure of health information under Principle 11.

Section 94 of the Act also enables the Director-General to enter into information sharing arrangements with certain relevant agencies with respect to information held by the Director-General.

## **22 Occupancy and rental agreement records**

- (1) The following records are to be kept concerning any occupancy agreement or rental agreement entered into in relation to an additional needs resident of an authorised boarding house—
  - (a) a copy of the agreement and of any written amendments to the agreement,
  - (b) if the agreement or amendments to the agreement are not in writing—a record of the date, parties to and terms of the agreement or amendments.

- (2) In this clause—

**occupancy agreement** and **rental agreement** have the same meaning as in Part 3 of the Act.

## **23 Staff information records**

The staff information records to be kept concerning each staff member (or former staff member) employed at an authorised boarding house are as follows—

- (a) the full name and the residential address of the staff member,
- (b) the date of birth of the staff member,
- (c) the date on which the staff member commenced work,
- (d) the positions in which the staff member is employed to work during the member's employment,
- (e) any relevant qualifications of the staff member (including first aid qualifications),
- (f) the date on which the staff member ceased to be employed to work at the authorised boarding house.

**Note—**

Section 84 of the Act also makes it a condition of a boarding house authorisation that the authorised operator ensures that probity checks are carried out on staff members and that records are kept of such checks.

## **24 Complaint information records**

The complaint information records to be kept concerning any complaint relating to an additional needs resident are as follows—

- (a) details of any complaint made by or on behalf of the resident concerning the care provided to the resident or the operations of the authorised boarding house,
- (b) details of any action taken in response to the complaint,
- (c) whether the complaint was resolved.

## **25 Fire safety procedure records**

The fire safety procedure records to be kept for an authorised boarding house are as follows—

- (a) any emergency evacuation plans prepared for the boarding house,
- (b) fire safety certificates and statements for the boarding house,
- (c) the dates for evacuation tests that have been carried out,
- (d) the dates and reasons for any actual evacuations.

# **Division 6 Reporting requirements**

## **26 Additional reportable incidents involving residents: section 83 of Act**

- (1) Each of the following incidents involving residents of an authorised boarding house is prescribed for the purposes of section 83 (1) (d) of the Act—
  - (a) an assault (other than a sexual assault) under Part 3 of the [Crimes Act 1900](#) (or the making of an allegation of such an assault) of—
    - (i) a resident by a staff member, or
    - (ii) a staff member by a resident, or
    - (iii) a resident by another resident,
  - (b) a serious accident involving a resident on the premises of the boarding house (being an accident that requires the resident to receive medical, dental or hospital treatment),
  - (c) the making of a complaint about the treatment of a resident.

### **Note—**

Section 83 of the Act requires the manager of an authorised boarding house to report to the Director-General certain incidents involving residents (including incidents prescribed by the regulations). A failure to do so is an offence.

- (2) For the purposes of subclause (1) (c), a **complaint about the treatment of a resident** means a complaint that consists of—
- (a) an allegation of a contravention of the Act or this Regulation by the authorised operator or a staff member in relation to the treatment of a resident, or
  - (b) an allegation that a staff member has committed an offence under Part 4AA (Fraud) of the [Crimes Act 1900](#) against a resident, or
  - (c) an allegation that a resident has been neglected or ill-treated, or that the safety, health or wellbeing of a resident has otherwise been compromised, while residing in the authorised boarding house concerned.

## 27 Reporting police attendances

- (1) The manager of an authorised boarding house must report to the Director-General the attendance of any police officer at the boarding house as soon as is reasonably practicable after the attendance if the reason for the attendance was to investigate an incident involving an additional needs resident.
- (2) The report must be in writing and set out the following—
- (a) the full name of the resident,
  - (b) the reason for the attendance of the police officer,
  - (c) the COPS Event Number provided by the NSW Police Force in relation to the attendance.
- (3) A manager of an authorised boarding house who contravenes this clause is guilty of an offence.
- Maximum penalty—10 penalty units.

## 28 Reporting failure to comply with planning requirements

- (1) The manager of an authorised boarding house must report to the Director-General the issuing of a planning non-compliance notice within 7 days after the notice is received.
- (2) A **planning non-compliance notice** is a notice, order or other document given or issued by a council to the effect that the authorised boarding house does not comply with requirements imposed by or under the [Local Government Act 1993](#) and the [Environmental Planning and Assessment Act 1979](#) with respect to the use of the boarding house, including (but not limited to)—
- (a) requirements in relation to building and fire safety, and
  - (b) relevant standards or requirements for places of shared accommodation for the purposes of Order No 5 (d) in the Table to section 124 of the [Local Government Act](#)

1993.

- (3) The report must be in writing and include a copy of the planning non-compliance notice.
- (4) A manager of an authorised boarding house who contravenes this clause is guilty of an offence.

Maximum penalty—10 penalty units.

## 29 Reporting changes in circumstances

- (1) The authorised operator of an authorised boarding house must report to the Director-General any of the following changes in circumstances within 7 days after the change—
  - (a) a change in the contact details of the authorised operator,
  - (b) if the authorised operator is a corporation or made the application for the boarding house authorisation on behalf of an unincorporated body—a significant change in the circumstances of a person involved in the control and management of the corporation or unincorporated body,
  - (c) any significant change that may affect the authorised operator's capacity to operate the boarding house.
- (2) For the purposes of subclause (1), a **significant change** includes a change in financial circumstances, such as an individual becoming bankrupt or a corporation being subject to winding up or other external administration.
- (3) An authorised operator of an authorised boarding house who contravenes this clause is guilty of an offence.

Maximum penalty—

- (a) in the case of a corporation—20 penalty units, and
- (b) in any other case—10 penalty units.

## Division 7 Other matters

### 30 Display of interim permit

An interim permit holder for an authorised boarding house must ensure that a copy of the interim permit is displayed in a conspicuous position at the boarding house.

Maximum penalty—

- (a) in the case of a corporation—10 penalty units, and

- (b) in any other case—5 penalty units.

**Note—**

Section 53 of the Act makes similar provision with respect to the licensee of a licensed boarding house.

## **Part 4 Miscellaneous**

### **31 Penalty notice offences and penalties**

- (1) For the purposes of section 98 of the Act—
- (a) each offence created by a provision specified in Column 1 of Schedule 2 is an offence for which a penalty notice may be served, and
  - (b) the penalty prescribed for each such offence is the amount specified opposite the provision in Column 2 of the Schedule.
- (2) If the reference to a provision in Column 1 of Schedule 2 is qualified by words that restrict its operation to specified kinds of offences, an offence created by the provision is a prescribed offence only if it is an offence of a kind so specified or committed in the circumstances so specified.

## **Part 5 Response to COVID-19 pandemic**

### **32 Definitions**

In this Part—

**impacted resident** means a resident of a boarding house who is impacted by the COVID-19 pandemic.

**relevant period** means the period ending on 26 March 2021.

**residency fees** means the fees payable in connection with a residency, including any occupancy fee or rent, or fees for services payable under an occupancy agreement.

### **33 When a resident is impacted by the COVID-19 pandemic**

- (1) For the purposes of this Part, a resident is impacted by the COVID-19 pandemic if—
- (a) the resident has—
    - (i) lost employment or income as a result of the impact of the COVID-19 pandemic, or
    - (ii) had a reduction in work hours or income as a result of the impact of the COVID-19 pandemic, or
    - (iii) had to stop working, or materially reduce the resident's work hours, because of—

(A) the resident's illness with COVID-19, or

(B) the resident's carer responsibilities for a family member ill with COVID-19,  
and

(b) as a result of any of the matters stated in paragraph (a), the resident's weekly income has been reduced by at least 25% compared to the resident's weekly income before the occurrence of any of the matters.

(2) In this clause—

**resident's weekly income** means the total of the income, including any government payments, received by the resident in a week.

#### **34 Notices of eviction to impacted residents for non-payment of residency fees during relevant period**

(1) This clause regulates, for the purposes of section 229(1)(c) of the [Residential Tenancies Act 2010](#), the notice that a proprietor must give an impacted resident if the proprietor intends to evict the impacted resident solely on the ground that the impacted resident has not paid residency fees payable under an occupancy agreement during the relevant period.

(2) The proprietor must give the impacted resident the following notice of the eviction—

(a) if the proprietor has participated, in good faith, in a formal rent negotiation process with the impacted resident but an agreement about the residency fees was not reached because the impacted resident did not participate in the process in good faith—60 days written notice,

(b) otherwise—6 months written notice.

(3) If a proprietor has not given notice in accordance with this clause, the proprietor is taken not to have complied with the occupancy principles as the principles apply under Part 3 of the Act.

(4) In this clause—

**formal rent negotiation process** means a dispute resolution process between a proprietor and an impacted resident, facilitated by an independent third party, to negotiate the residency fees payable under an occupancy agreement having regard to the specific circumstances of the proprietor and the impacted resident.

#### **35 Notices of eviction to residents on particular grounds during relevant period**

(1) This clause regulates, for the purposes of section 229(1)(c) of the [Residential Tenancies Act 2010](#), the notice that a proprietor must give a resident if the proprietor intends to evict the resident on a ground other than an excluded ground during the relevant period.

- (2) The proprietor must give the resident not less than 90 days written notice of the eviction.
- (3) If a proprietor has not given notice in accordance with this clause, the proprietor is taken not to have complied with the occupancy principles as the principles apply under Part 3 of the Act.
- (4) In this clause—

***excluded ground*** means any of the following grounds—

- (a) the resident has not paid residency fees payable under the occupancy agreement, but only if the resident is not an impacted resident,
- (b) the resident has intentionally or recklessly caused or permitted serious damage to the premises or other residents' property,
- (c) the resident is using the premises for illegal purposes,
- (d) the resident has threatened, abused, intimidated or harassed other residents or the proprietor.

## **Schedule 1 Standards for authorised boarding houses**

(Clause 12)

### **Note—**

An authorised boarding house is an assisted boarding house for which a licence or interim permit has been granted under Part 4 of the Act. Accordingly, these standards are not applicable to general boarding houses.

Nothing in this Schedule limits any other requirement imposed by or under the [Environmental Planning and Assessment Act 1979](#), the [Food Act 2003](#), the [Local Government Act 1993](#), the [Public Health Act 2010](#) or any other Act or law with respect to the use, or the provision of services to residents, of authorised boarding premises. See section 6 of the Act.

## **Part 1 Staffing**

### **1 Staffing levels**

- (1) An authorised boarding house must have staff levels that are sufficient to cater for the needs of the additional needs residents of the boarding house.
- (2) Without limiting subclause (1), the staff levels of the authorised boarding house must include—
  - (a) at least one staff member present on the premises of the boarding house at all times, and
  - (b) if that staff member does not have a current first aid qualification or has that qualification but is not capable of attending to a first aid emergency expeditiously—at least one other staff member present on the premises of the

boarding house at all times who has that qualification and is capable of attending to a first aid emergency expeditiously.

(3) It is sufficient compliance with this clause if—

- (a) the staff levels are determined to be sufficient using a staff needs assessment tool, or
- (b) the Director-General has given written approval for the staffing levels, or
- (c) the staffing levels are in accordance with a direction given by the Director-General.

**Note—**

See clause 17 of the Regulation concerning the giving of directions about staffing levels.

(4) In this clause—

**staff needs assessment tool** means an assessment tool that is in a form approved by the Director-General and that contains criteria to be used to determine whether the number and rostering of staff members of an authorised boarding house are sufficient to cater for the needs of the additional needs residents of the boarding house.

## **2 Staffing qualifications, skills and training**

(1) The staff members of an authorised boarding house who exercise functions in relation to additional needs residents must—

- (a) be at least 16 years of age, and
- (b) have the knowledge and skills required to exercise those functions (including an understanding of the importance of delivering quality services to, and promoting and protecting the wellbeing of, such residents), and
- (c) be competent in exercising their functions.

(2) Each staff member must be trained in the proper use of the fire fighting equipment of an authorised boarding house and the evacuation procedures followed for the boarding house.

**Note—**

Section 84 of the Act also makes it a condition of a boarding house authorisation that the authorised operator ensure that the requirements of that section concerning staff members are complied with.

Section 84 of the Act provides for the following requirements—

- (a) A person must not be engaged as a staff member of an authorised boarding house unless the authorised operator is satisfied that the person is a suitable person to be involved in the management or operation of

the boarding house.

- (b) The authorised operator must, in deciding whether a person is a suitable person to be involved in the management or operation of the boarding house, first ensure that a criminal record check is conducted on the person.
- (c) The authorised operator must ensure that a new criminal record check is conducted or obtained in respect of a staff member every 3 years during the period while the person remains a staff member.
- (d) The authorised operator of an authorised boarding house must not engage (or continue to engage) a person to be a staff member of the boarding house if—
  - (i) the operator is satisfied from the person's criminal record check that the person has committed a serious criminal offence, or
  - (ii) the person refuses to obtain or submit to a criminal record check for the purposes of section 84 of the Act.
- (e) The authorised operator must ensure that records of such criminal records checks are kept for a period of 3 years and must make those records available for inspection by enforcement officers.

### 3 Minimum qualifications for managers

Without limiting clause 2, the manager of an authorised boarding house must have—

- (a) the required abilities to provide services to people with additional needs in boarding houses and the capacity to exercise overall supervision of an assisted boarding house, and
- (b) one or more of the following—
  - (i) a degree or diploma in social work, or in health or community work, of a kind approved by the Director-General,
  - (ii) relevant experience in the management of assisted boarding houses.

### 4 Use of volunteers

Services to additional needs residents of an authorised boarding house may be provided with the assistance of volunteers, but only if the volunteers—

- (a) supplement the staffing requirements specified by this Part and are not counted in determining whether the required staffing levels have been met, and
- (b) are covered by insurance arrangements in relation to their work.

#### **Note—**

The term **staff member** of an assisted boarding house is defined in section 35 (1) of the Act to include volunteers. They are therefore subject to the same requirements relating to other staff members, including probity checks for the purposes of the condition imposed on boarding house authorisations by section 84 of the Act. However, this clause ensures that such volunteers are not to be counted for the purposes of determining whether there are appropriate staffing levels for an authorised boarding house.

## Part 2 Physical environment

### Division 1 Housing of residents

#### 5 Application of Division to pre-existing assisted boarding houses

- (1) A **pre-existing authorised assisted boarding house** means an assisted boarding house that has a boarding house authorisation with the following features—
  - (a) the authorisation is either a converted licence (within the meaning of clause 5 of Schedule 2 to the Act) or a converted permit (within the meaning of clause 6 of Schedule 2 to the Act), and
  - (b) the converted licence or converted permit has remained in force continually since the day on which the former *Youth and Community Services Act 1973* was repealed by the Act.
- (2) The provisions of this Division (other than this clause) do not apply to a pre-existing authorised assisted boarding house until the day that is the fifth anniversary of the commencement of this Regulation.
- (3) The provisions of clause 5 of the former *Youth and Community Services Regulation 2010* (as in force immediately before it was repealed by the Act) continue to apply to a pre-existing authorised assisted boarding house during that 5-year period.

**Note—**

Clause 5 of the former *Youth and Community Services Regulation 2010* made provision for the standard of sleeping facilities required for residents of former licensed residential centres under the *Youth and Community Services Act 1973*.

- (4) The proprietor of a pre-existing authorised assisted boarding house must prepare (or cause to be prepared) and submit to the Director-General a plan, in the form approved by the Director-General, outlining the steps that will be taken for the boarding house to conform with clauses 6 and 7 by the day that is the fifth anniversary of the commencement of this Regulation (a **transition plan**).
- (5) A transition plan is to be prepared and submitted as soon as practicable after the end of the period of 12 months after the commencement of this Regulation and at 12-monthly intervals until that anniversary.
- (6) Each transition plan is to indicate the date (being the earliest date practicable) by which the steps outlined in the plan will be taken.

#### 6 Maximum number of residents

The number of residents of an authorised boarding house (whether additional needs residents or other residents) must not exceed 30 persons unless a condition of its boarding house authorisation imposed (or taken to have been imposed) by the Director-

General provides otherwise.

**Note—**

The maximum number of residents that may be accommodated in a boarding house may also be limited under the [Environmental Planning and Assessment Act 1979](#) or [Local Government Act 1993](#). See section 6 of the Act.

## **7 Sleeping arrangements**

- (1) The maximum number of residents that may occupy the same bedroom in an authorised boarding house is—
  - (a) one resident, or
  - (b) if a resident requests shared occupation of a bedroom with a particular resident of his or her choice—2 residents.
- (2) The floor area of a bedroom that is occupied by one resident only must not be less than 7.5 square metres.
- (3) The floor area of a bedroom that is occupied by 2 residents must not be less than 11 square metres.
- (4) Each bedroom must be capable of being locked to ensure the privacy of the occupants.
- (5) Any master key that would enable a bedroom to be unlocked by someone other than an occupant of the bedroom must be kept in a secure place by the manager of the authorised boarding house.
- (6) Provision must be made in relation to additional needs residents to ensure that—
  - (a) mattresses and other bedding are clean and comfortable, and
  - (b) bed clothing is appropriate to the climate, and
  - (c) all bed clothing is kept clean and in good repair, and
  - (d) bed linen used by one resident is washed before it is used by another resident, and
  - (e) absorbent or waterproof bed sheets are provided to residents who require them.

**Note—**

Clause 46 of the [Public Health Regulation 2012](#) makes it an offence for an occupier of premises to allow any room or cubicle in the premises to be used for the purposes of sleeping accommodation unless—

- (a) the room or cubicle has a floor area of 5.5 square metres or more for each person sleeping in it (in the case of long-term sleeping accommodation) or 2 square metres or more for each person sleeping in it (in any other case), or
- (b) the room or cubicle has been exempted by the Minister for Health under that clause and complies with any

conditions attached to the exemption, or

(c) the premises are private domestic premises.

This provision also applies in relation to authorised boarding houses. See section 6 of the Act.

## **Division 2 State of premises**

### **8 Cleanliness, maintenance and repairs**

- (1) The premises of an authorised boarding house, and all equipment and furnishings used in providing services to additional needs residents, must be maintained in a safe, clean and hygienic condition and in a reasonable state of repair at all times.
- (2) An approved operator must use the operator's best endeavours to ensure that any buildings and grounds on the premises are kept free of vermin and pests.

### **9 Light and ventilation**

Adequate light and ventilation must be maintained in the premises of an authorised boarding house.

### **10 Furniture and fittings**

Appropriate furniture and fittings must be provided at an authorised boarding house and maintained in a reasonable state of repair.

### **11 Heating, cooling and other electrical equipment**

- (1) All heating, cooling and other electrical equipment of an authorised boarding house must—
  - (a) be maintained in a reasonable state of repair and safe working order, and
  - (b) be fitted so as to afford adequate protection from burns and electrical shocks.
- (2) The heating and cooling that is provided must be appropriate for the climate and temperature.

## **Division 3 Facilities and equipment**

### **12 Clothing and toiletries**

Each additional needs resident of an authorised boarding house must—

- (a) have a supply of personal clothing and footwear that is adequate to allow for laundering and repair and is suited to climate and seasonal conditions, and
- (b) be provided with their own personal toothbrush, toothpaste and soap, and
- (c) be provided with a supply of bath towels and face washers that is adequate to allow

for laundering, and

- (d) not be expected or required to share clothing, footwear, toiletries or other items of a personal nature with another person.

### **13 Storage facilities**

An authorised boarding house must have secure storage facilities (whether fixed or moveable) for each of the following—

- (a) recreation and education supplies,
- (b) luggage,
- (c) cleaning materials,
- (d) outdoor equipment.

### **14 Toilets and washing facilities**

- (1) An authorised boarding house must have sufficient toilet, bathing or showering and hand washing facilities, and a sufficient supply of toilet paper, for use by additional needs residents.
- (2) The toilet, bathing or showering and hand washing facilities provided must be safe for use by additional needs residents and must have products and equipment for cleaning those facilities whenever necessary.

### **15 Call bells**

- (1) An authorised boarding house must have sufficient functioning call bells or other communication systems located on its premises to allow additional needs residents to contact staff members in the case of an emergency, including (but not limited to) a call bell or other form of communication in the hallway or common area on every floor, in the kitchen and in all bathrooms.
- (2) Call bells and other communication systems must be tested regularly to ensure continuous operation.

### **16 Communal space**

- (1) An authorised boarding house must have at least one communal living space for the use of residents that is of an appropriate size and space for residents to socialise.
- (2) A communal living space may be located outside, but only if the space is (or is made) appropriate for the climate and temperature and there is at least one indoor communal living space of a size appropriate for the number of residents.

## **17 Dining rooms**

An authorised boarding house must have a dining room that is sufficient in area to permit comfortable seating arrangements for all additional needs residents and other persons who are receiving meals.

## **18 Private or quiet rooms**

An authorised boarding house must have a private or quiet room that is made available for use by any additional needs residents so as to enable them to receive visitors in private (including authorised service providers within the meaning of section 77 of the Act and health practitioners).

## **19 Food preparation areas**

An authorised boarding house must have a food preparation area available for use by additional needs residents that—

- (a) includes a stove, microwave, sink, refrigerator, suitable disposal facilities and hot water supply, and
- (b) is both safe and hygienic for food preparation and storage.

### **Note—**

See also the requirements of the [Food Act 2003](#) (and the Food Safety Standards within the meaning of that Act) concerning food preparation. Those provisions apply in relation to authorised boarding houses. See section 6 of the Act.

## **20 Laundry**

- (1) An authorised boarding house must have laundry arrangements, whether on the premises of the boarding house or through another facility, service or arrangement.
- (2) Irrespective of such arrangements, an authorised boarding house must have laundry facilities on the premises of the boarding house that are available for use by the residents, being facilities that include at least a laundry tub connected to hot and cold water.
- (3) An authorised boarding house must have safe, sanitary facilities for the storage of soiled clothes and linen before laundering or disposal.

## **21 Telephone**

- (1) An authorised boarding house must be equipped with—
  - (a) an operating telephone that is readily accessible to staff members and can be used to contact emergency services (including the nearest police station, ambulance station, fire service, and medical emergency facility), and

(b) at least one operating telephone that is available for use by additional needs residents for a reasonable charge.

(2) Subclause (1) (b) does not permit an authorised operator to charge a fee for the use of a telephone to ring a free-call number.

## **Part 3 Lifestyle**

### **22 Protection of private property**

- (1) Additional needs residents of an authorised boarding house must be provided with suitable storage facilities for their personal property.
- (2) The private property of an additional needs resident must not be taken, borrowed or given to any other person without the permission of the resident or a person responsible for the resident.
- (3) If an additional needs resident moves out, the personal belongings of a resident must be returned to the resident when he or she leaves the authorised boarding house.

### **23 Protection of financial affairs of additional needs residents**

- (1) Each additional needs resident of an authorised boarding house 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.
- (2) In the event that an additional needs 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 Civil and Administrative Tribunal for a financial management order where necessary).

### **24 Information about available support services**

- (1) An additional needs resident of an authorised boarding house must be provided with information about support services, financial services, legal services and advocacy services that are available to them.
- (2) An additional needs resident who wishes to access any such service must be assisted (and not obstructed in any way) in accessing those services regardless of where those services are available.

#### **Note—**

Section 77 of the Act makes it a condition of a boarding house authorisation and a manager approval that the authorised operator and approved manager of an authorised boarding house permit an authorised service provider to enter, and confer with residents of, the authorised boarding house in the manner authorised by or under that section. An **authorised service provider** is a person authorised by the Director-General under that section to enter authorised boarding houses to provide (or provide relevant information or advice about) support

services, financial services, legal services or advocacy services provided to residents by the person or the organisation to which the person belongs.

## **25 Personal relationships**

- (1) An authorised boarding house must have reasonable arrangements in place to assist additional needs residents to maintain relationships with families and friends, (including arrangements to receive visitors and make or take telephone calls in private at reasonable times) having regard to the needs of other residents.
- (2) Friendships between additional needs residents of the authorised boarding house must not be obstructed.
- (3) However, nothing in this clause prevents the exclusion of any visitors (or the prohibition or discouragement of friendships) 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.

## **26 Recreation**

An authorised boarding house must be equipped with a balance of indoor and outdoor equipment (such as televisions, DVD players, radios, books, games, outdoor seating and lounges) to meet the recreational needs of the additional needs residents.

# **Part 4 Health and wellbeing**

## **Division 1 Medication**

### **27 Application of Division**

This Division applies to and in respect of the administration, and supervision of the administration, of medications to additional needs residents who are unable to administer medications to themselves or who need supervision or assistance to administer medications.

### **28 Storage of medication of additional needs residents**

- (1) Any medication held at an authorised boarding house on behalf of an additional needs resident must be kept in a lockable storage facility that—
  - (a) is secured to prevent access by an unauthorised person, and
  - (b) that is kept locked at all times when not in immediate use.
- (2) When the storage facility is unlocked, the medication must be kept under the direct supervision of an authorised staff member.
- (3) Any medication kept in the facility must be stored in sealed receptacles apart from any food present in the storage facility.

- (4) Any medication required to be stored at or below a particular temperature must be stored at the appropriate temperature in a lockable storage facility in accordance with the requirements in subclauses (1) and (2).
- (5) No alteration may be made to any label affixed to a container of prescribed medication other than by the person who dispensed the medication.
- (6) Adequate secure lockable storage for medication must be provided for an additional needs resident who personally administers the medication to himself or herself.
- (7) Prescribed medication for an additional needs resident must not be kept at an authorised boarding house if—
  - (a) the resident no longer resides there, or
  - (b) the expiry date for the medication has passed, or
  - (c) the resident, a person responsible for the resident or the treating medical practitioner or nurse practitioner advised that the resident no longer requires the medication.
- (8) Any medication that is expired or no longer required for administration must be destroyed in a manner that is not likely to constitute a risk to the public, such as through the Return Unwanted Medicines project available at community pharmacies.
- (9) A prescribed medication stored on behalf of an additional needs resident must (unless destroyed under subclause (8)) be returned to that resident when the resident leaves the authorised boarding house.

## **29 Distribution and administration of medication**

- (1) Medication distributed or administered at an authorised boarding house to an additional needs resident must be distributed or administered in accordance with the requirements of this clause.
- (2) Prescribed medication administered by a staff member must only be administered in accordance with the directions of the person who prescribed it, regardless of the method or route of administration.
- (3) Where prescribed medication is to be administered to a resident when required according to the resident's needs, written directions of the following matters must be obtained from a medical practitioner or nurse practitioner and kept with the resident's health records—
  - (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 or nurse practitioner should be contacted in relation to the administration of the medication.

- (4) Non-prescribed medication that is distributed by the authorised boarding house must be distributed in accordance with the product instructions unless advised otherwise by the treating medical practitioner or nurse practitioner.
- (5) Before administering or supervising the administration of medication to a resident, the staff member responsible for giving the medication must confirm that the medication is being provided to the correct resident, at the correct dose, by the correct route, at the correct frequency and at the correct time.
- (6) A staff member administering prescribed medication must consult with the treating medical practitioner or nurse practitioner, or a pharmacist, in relation to any concern about the appropriateness of a medication before administering the medication or substance.
- (7) A staff member supervising the administration of medication by a resident must hand the medication directly to the resident at the appropriate administration time and observe the administration of it by the resident.
- (8) A staff member who administers prescribed medication must ensure any instructions for the administration of the medication (such as “swallow whole”) are followed.
- (9) A staff member who administers or supervises the administration of prescribed medication to a resident must notify the treating medical practitioner or nurse practitioner of—
  - (a) any failure of administration, whether due to refusal or otherwise, or
  - (b) any error in medication administration.
- (10) Nothing in this Division precludes a resident from personally administering an injection of medication (including insulin) to himself or herself. However, a staff member must not administer an injection to a resident unless the staff member has been adequately trained to complete that task.
- (11) If it is practicable to do so, staff members should ensure that all prescribed medicines are repacked and labelled by a registered pharmacist, medical practitioner or nurse practitioner into individual doses in a dose administration aid such as a blister pack.
- (12) If a resident is responsible for the administration of prescribed medication to himself or herself—

- (a) in the case where there is reason to believe that the resident has maladministered or failed to administer that medication—reasonable steps must be taken to ensure that the health practitioner who prescribed the medication is notified (and, if applicable, any mental health or general emergency services), and
  - (b) in the case where there is reason to believe that the resident is failing to comply with recommendations or advice from the medical practitioner or nurse practitioner who prescribed the medication—reasonable steps must be taken to discuss the matter—
    - (i) with the resident or a person responsible for the resident, and
    - (ii) where appropriate, the practitioner who prescribed the medication.
- (13) Arrangements must be made for all medications required by a resident during the resident's absence from the authorised boarding house to be to be provided to the resident for administration during the absence. No medication may be repacked by any person other than a registered pharmacist, medical practitioner or nurse practitioner.

## **Division 2 Health monitoring**

### **30 Choice of and access to health care providers**

- (1) Additional needs residents of an authorised boarding house must be offered the opportunity to select their own health care providers and be provided with reasonable support to access those providers in a timely way.
- (2) It is sufficient compliance with subclause (1) if—
  - (a) preferred health care providers are identified by residents and included in each resident's health records, and
  - (b) residents are assisted, as far as possible, with making appointments and with transport arrangements to attend appointments with health care providers, and
  - (c) residents are encouraged to access health care promptly if any sign of deterioration in their health status appears.

### **31 Assistance with health issues**

The following requirements apply in relation to the provision of assistance to additional needs residents of an authorised boarding house—

- (a) in the case where an additional needs resident suffers an injury or is ill while on the premises of the boarding house—
  - (i) immediate steps must be taken to administer any necessary emergency first aid and, if the injury or illness requires urgent medical or dental treatment, to secure

that treatment, and

- (ii) the resident must be monitored on the premises until the resident recovers or until a person responsible for the resident takes charge of the resident,
- (b) in the case where any medication or medical, hospital or dental treatment or ambulance services are obtained for the resident—
  - (i) a person responsible for the resident must be notified as soon as practically possible of the injury or illness and the treatment or services arranged for the resident, and
  - (ii) relevant medical advice in relation to the management of the injury or illness must be followed,

**Note—**

See also section 83 of the Act (read with clause 26 of this Regulation), which requires the Director-General to also be notified in the case of a serious accident.

- (c) in the case where any other matter concerning the resident's health arises while the resident is on the premises of the boarding house (including a significant deterioration in the resident's health)—a person responsible for the resident must be given notice of that matter as soon as practicable after the authorised operator becomes aware of the matter.

**Note—**

It is also a condition of a boarding house authorisation for the authorised operator to ensure that a policy dealing with infectious diseases is developed, maintained and implemented. See clause 16 of this Regulation.

## **Division 3 Food and nutrition**

### **32 Food and nutrition**

- (1) This clause applies to and in respect of additional needs residents who are unable to provide themselves with meals and food that meet their dietary needs and daily requirements.
- (2) Each additional needs resident of an authorised boarding house must be provided with meals that take into account their health, dietary needs and cultural, religious and dietary preferences, and a menu plan that takes into account the following—
  - (a) discussion of dietary needs and cultural, religious and dietary preferences with each resident,
  - (b) kitchen staff being informed of those preferences and menus being planned that take these into consideration,
  - (c) the acquisition of food and supplies that reflect the planned menu.

- (3) Each additional needs resident must be provided with food that is adequate in quality, quantity, variety and nutritional value to meet their daily and specific dietary requirements, and in accordance with the following—
- (a) menus are planned with reference to published dietary guidelines or, when necessary, the advice of a qualified dietician or nutritionist,
  - (b) menus are rotated regularly to ensure variety,
  - (c) residents have ready access at all times to drinking water and other beverages and refreshments,
  - (d) meals are provided at appropriate and acceptable times.

**Note—**

See also the requirements of the [Food Act 2003](#) (and the Food Safety Standards within the meaning of that Act) concerning food preparation. Those requirements apply in relation to authorised boarding houses. See section 6 of the Act.

**Division 4 Safety**

**33 Evacuation procedures**

- (1) Additional needs residents of an authorised boarding house must be informed of the evacuation procedures that are followed by the boarding house.
- (2) Regular evacuation testing must be carried out for an authorised boarding house every 6 months or more frequently if this is required to manage risks effectively (taking into account the particular needs of all the additional needs residents, the nature of the premises, the overall number of occupants, staffing numbers and staff and resident turnovers).

**34 First aid kits**

- (1) An authorised boarding house must have a suitably equipped and well stocked first aid kit of a kind approved by the Director-General.
- (2) The first aid kit must be readily accessible to residents and staff members.
- (3) Cardio-pulmonary resuscitation charts must be displayed in a prominent position both inside and outside the premises of an authorised boarding house.

**Schedule 2 Penalty notice offences**

(Clause 31)

Column 1	Column 2
Provision	Penalty

**Offences under the Act**

Section 9 (5)	\$8,250 (in the case of a corporation) \$4,125 (in any other case)
Section 10 (1)	\$1,650 (in the case of a corporation) \$825 (in any other case)
Section 11	\$1,650 (in the case of a corporation) \$825 (in any other case)
Section 41 (1)	\$9,900 (in the case of a corporation) \$4,950 (in any other case)
Section 41 (2)	\$9,900 (in the case of a corporation) \$4,950 (in any other case)
Section 43 (5)	\$3,300 (in the case of a corporation) \$1,650 (in any other case)
Section 49 (4)	\$1,650
Section 50 (2)	\$1,650
Section 53	\$825 (in the case of a corporation) \$413 (in any other case)
Section 57 (3)	\$3,300 (in the case of a corporation) \$1,650 (in any other case)
Section 58 (2)	\$1,650
Section 63 (4)	\$1,650
Section 65 (4)	\$1,650
Section 67 (3)	\$825
Section 73	\$3,300 (in the case of a corporation) \$1,650 (in any other case)
Section 80	\$3,300 (in the case of a corporation) \$1,650 (in any other case)
Section 83 (3)	\$4,125

**Offences under this Regulation**

Clause 19 (2)	\$1,650 (in the case of a corporation) \$825 (in any other case)
Clause 27 (3)	\$825
Clause 28 (4)	\$825
Clause 29 (3)	\$1,650 (in the case of a corporation) \$825 (in any other case)

Clause 30

\$825 (in the case of a corporation)  
\$413 (in any other case)