

# Youth and Community Services Act 1973 No 90

[1973-90]



New South Wales

## Status Information

### Currency of version

Repealed version for 1 September 2012 to 30 June 2013 (accessed 13 September 2024 at 3:15)

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—

- **Repeal**

The Act was to be repealed on the commencement of sec 3 of the [Miscellaneous Acts \(Disability Services and Guardianship\) Repeal and Amendment Act 1987 No 262](#) but was repealed by sec 104 (a) of the [Boarding Houses Act 2012 No 74](#) with effect from 1.7.2013.

### 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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# Youth and Community Services Act 1973 No 90



New South Wales

An Act to state the objects to which the powers, authorities, duties and functions of the Minister shall be exercised or performed; to provide for the licensing of certain premises at which handicapped persons reside; to amend the *Child Welfare Act 1939* and certain other Acts; and for purposes connected therewith.

## Part 1 Preliminary

### 1 Name of Act

This Act may be cited as the *Youth and Community Services Act 1973*.

### 2 Commencement

The provisions:

- (a) of section 1 and of this section shall commence upon the date of assent to this Act,
- (b) of sections 3 to 10, other than the provisions referred to in paragraph (c), shall commence upon such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette, and
- (c) of section 10, in so far as they effect the amendment specified in Part 2 of the Schedule, and of Part 2 of the Schedule, shall commence upon such day, not being earlier than the day appointed and notified under paragraph (b), as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

### 2A (Repealed)

### 3 Definitions

In this Act, except in so far as the context or subject-matter otherwise indicates or requires:

***appointed day*** means the day appointed and notified under section 2 (b).

***Department*** means the Department of Youth and Community Services.

**Director-General** means the person for the time being holding office or acting as the Director-General of the Department.

**handicapped person** means a person who is senile, temporarily or permanently incapacitated for work, mentally ill, intellectually handicapped, physically handicapped, sensorily handicapped, chronically ill, of advanced age or suffering from any medical condition prescribed by the regulations, or any combination of those disabilities, and who requires supervision or social habilitation.

**licence** means a licence that is in force after having been granted under Part 3.

**licensed manager** means the person for the time being specified under section 13 (1) (c) in a licence.

**licensed premises** means premises licensed for the purposes of Part 3.

**licensee** means the person to whom a licence has been granted.

**permit** means a permit that is in force after having been issued under Part 3.

**premises** means any place, vehicle or vessel.

**proprietor** means:

- (a) in relation to premises that are not leased—the owner or any joint owner of the premises, or
- (b) in relation to premises that are leased—the lessee or any joint lessee who is entitled to immediate possession of the premises.

**regulations** means regulations made under this Act.

**relative**, in relation to a person, means:

- (a) a husband, wife, parent, step-parent, son, daughter, step-son, step-daughter, grandparent, grandchild, brother, sister, step-brother, step-sister, uncle, aunt, niece or nephew (whether by consanguinity or affinity) of the person,
- (b) a guardian of the person, or
- (c) a person in whose care or custody the person has been placed in accordance with the provisions of the [Adoption Act 2000](#).

**residential centre for handicapped persons** means any premises comprising or of the nature of lodgings or a boarding house, home or hostel:

- (a) at which 2 or more handicapped persons reside:
  - (i) subject to the payment of a fee or the giving of some other consideration, and

- (ii) otherwise than with a person who is a relative of each of those persons, is of or above the age of 18 years and is not a handicapped person, or
- (b) declared to be a residential centre for handicapped persons by an order in force under section 3A,  
but does not include any premises that:
  - (c) form part of a State school or certified school within the meaning of the *Public Instruction (Amendment) Act 1916*, or
  - (d) comprise or form part of:
    - (i) a private health facility licensed under the *Private Health Facilities Act 2007* or a nursing home within the meaning of the *Public Health Act 2010*,
    - (ii) an admission centre, an authorised hospital or a mental hospital within the meaning of the *Mental Health Act 1958*,
    - (ia) (Repealed)
    - (iii) a public hospital within the meaning of the *Health Services Act 1997*, or
    - (iv) premises exempted from the operation of Part 3 by an order in force under section 3B.

### **3A Declaration of residential centres**

- (1) The Minister may, by order in writing served on the proprietor or occupier of premises comprising or of the nature of lodgings or a boarding house, home or hostel, declare those premises to be a residential centre for handicapped persons if the Minister considers that 2 or more handicapped persons reside at the premises:
  - (a) whether or not subject to the payment of a fee or the giving of some other consideration, and
  - (b) otherwise than with a person who is a relative of each of those persons, is of or above the age of 18 years and is not a handicapped person.
- (2) An owner, an occupier or a lessee of any premises in respect of which an order made under subsection (1) is in force may apply to the Administrative Decisions Tribunal for a review of the declaration of those premises as a residential centre for handicapped persons.
- (3) An application under subsection (2) may be made only on the grounds:
  - (a) that the premises to which the declaration relates are not being used as a place of residence for 2 or more handicapped persons, or

(b) that all of the handicapped persons residing at those premises reside there with a relative of them who is of or above the age of 18 years but is not a handicapped person.

(4) Subsection (3) applies despite the provisions of section 63 (1) or (2) of the *Administrative Decisions Tribunal Act 1997*.

(5)-(7) (Repealed)

### **3B Order exempting premises**

(1) The Minister may, by order in writing served on the proprietor or occupier of premises, exempt those premises, absolutely or subject to terms or conditions specified in the order, from the operation of Part 3.

(2) Where premises are exempted under subsection (1) from the operation of Part 3 subject to a condition, the premises are so exempted only while the condition is not breached.

### **4 (Repealed)**

### **5 Reference in other Acts etc**

On and from the appointed day, a reference in any other Act or in any regulation, by-law or other statutory instrument or in any other document, whether of the same or of a different kind:

(a) to the Department of Child Welfare and Social Welfare or to the Child Welfare Department shall be read and construed as a reference to the Department,

(b) to the Director of the Department of Child Welfare and Social Welfare or to the Director of the Child Welfare Department shall be read and construed as a reference to the Department Head of the Department, or

(c) to the Under Secretary of the Department of Child Welfare and Social Welfare or to the Under Secretary of the Child Welfare Department shall be read and construed as a reference to the Department Head of the Department.

## **Part 2**

### **6-10 (Repealed)**

## **Part 3 Licensing of residential centres for handicapped persons**

### **11 Application for licence**

(1) A person who is, or intends to become, the proprietor of premises may apply to the Minister in writing and in or to the effect of the prescribed form for a licence:

- (a) to enable the premises to be used as a residential centre for handicapped persons, and
  - (b) to authorise a person specified in the application to have the conduct of a residential centre for handicapped persons at the premises.
- (2) When the Minister receives an application under subsection (1), the Minister shall cause an inquiry to be made with respect to the application by representatives from the Department and the Health Commission of New South Wales and a report on the application to be made and furnished to the Minister by an officer of the Department.
- (3) A person shall not, in an application for a licence or in connection with an inquiry under subsection (2):
- (a) make a statement, or
  - (b) furnish information,
- that the person knows to be false or misleading in a material particular.
- Penalty for an offence against this subsection: \$500.

## **12 Grant or refusal of licence**

- (1) Upon receiving a report under section 11 (2) on an application for a licence, the Minister shall:
- (a) grant the licence to the applicant, or
  - (b) cause to be served on the applicant for the licence a notice stating that, when 28 days have expired after service of the notice, the Minister intends to refuse the licence on the grounds specified in the notice unless it has been established to the Minister's satisfaction that the licence should not be refused.
- (2) When 28 days have expired after a notice has been served under subsection (1) (b) on an applicant for a licence, the Minister shall, after considering any submissions made to the Minister during that period by the applicant:
- (a) grant the licence to the applicant, or
  - (b) refuse the licence and cause to be served on the applicant a notice stating the grounds on which the licence has been refused.

## **13 Licence to specify certain particulars**

- (1) A licence granted under this Part shall specify:
- (a) the person to whom it is granted,
  - (b) the premises to which it relates, and



(c) the person who is authorised by the licence to have the conduct of a residential centre for handicapped persons at those premises.

(2) Notwithstanding subsection (1) (a), a licence may specify that it is granted to an unincorporated association but, in any such case, the applicant for the licence shall be deemed, for the purposes of this Act, to be the person to whom the licence was granted, unless a further person who has been appointed by the association to be the licensee gives written notice to the Minister of his or her appointment and of his or her full name and address, in which case, from the time the notice is received by the Minister, the further person so appointed shall be deemed, for the purposes of this Act, to be the person to whom the licence was granted.

#### **14 Change of licensed manager**

(1) A licensee of licensed premises may apply in writing and in or to the effect of the prescribed form for the Minister's consent to the replacement of the licensed manager for the time being of the licensed premises by another person.

(2) When the Minister receives an application under subsection (1), the Minister shall, by notice served on the applicant, the licensed manager for the time being of the licensed premises to which the application relates and the other person specified in the application:

(a) if the Minister considers the other person suitable to have the conduct of a residential centre for handicapped persons at the licensed premises—consent to the other person becoming the licensed manager of those premises, or

(b) refuse the application.

(3) When the Minister has consented under subsection (2) to another person becoming the licensed manager of licensed premises:

(a) any person who was the licensed manager of the licensed premises immediately before the consent was given ceases to be the licensed manager of those premises, and

(b) the other person shall be deemed to be the person who is specified under section 13 (1) (c) in the licence for the licensed premises.

(4) A notice served for the purpose of giving a consent under subsection (2) shall specify any conditions, other than prescribed conditions, that are in force when the notice is served and to which the licence to which it relates is subject.

#### **15 Effect of licence**

While a licence granted under this Part is in force:

(a) the premises specified in the licence under section 13 (1) (b) are licensed premises for

the purposes of this Part, and

- (b) the licensed manager of the premises to which the licence relates is authorised to have the conduct of a residential centre for handicapped persons at those premises.

## **16 Conditions of licence**

A licence is subject to:

- (a) any condition prescribed for all licences or for a class of licences to which it belongs,
- (b) the condition, which shall be specified in it, in relation to the maximum number of persons who may, at the one time, reside at the premises to which it relates, and
- (c) any other unrevoked condition as in force for the time being, being a condition that the Minister thought fit to impose on the licence and that was:
  - (i) specified in the licence when it was issued, or
  - (ii) subsequently imposed on the licence under section 17.

## **17 Revocation, variation or addition of conditions**

- (1) If the Minister intends to revoke or vary any condition of a licence or to impose a further condition on the licence, the Minister shall cause to be served on:

- (a) the licensee, and
- (b) the licensed manager,

a notice stating that, when 28 days have expired after service of the notice, the Minister intends to revoke or vary a condition of the licence specified in the notice or to impose on the licence a further condition specified in the notice, as the case may be, unless it has been established to the Minister's satisfaction that the Minister should not do so.

- (2) When 28 days have expired after a notice has been served under subsection (1) on a licensee and licensed manager, the Minister may, after considering any submissions made to the Minister during that period by either or both of those persons:

- (a) revoke or vary the condition specified in the notice, or
- (b) impose the further condition specified in the notice on the licence to which the notice relates,

by a further notice served on those persons.

- (3) Notwithstanding subsections (1) and (2), where a licensee has requested that a condition of his or her licence be revoked or varied or that a further condition be imposed on his or her licence, the Minister may, by notice served on the licensee and

the licensed manager:

- (a) revoke or vary the condition, or
  - (b) impose the further condition,
- as the case may require.

## **18 Suspension and revocation of licence**

- (1) For the purposes of this section, the prescribed grounds, in relation to the suspension or revocation of a licence, are:
  - (a) that the licensee has requested that the licence be suspended or revoked,
  - (b) that either the licensee or the licensed manager is no longer a fit and proper person to be concerned in the conduct of a residential centre for handicapped persons,
  - (c) that either of those persons has contravened or failed to comply with a provision of this Part or of the regulations that is applicable to the person or that the premises to which the licence relates do not comply with any such provision or a condition of the licence applicable to them,
  - (d) that the premises to which the licence relates are not being used as a residential centre for handicapped persons,
  - (e) that the licensee is not the proprietor of the premises to which the licence relates, or
  - (f) that neither the licensed manager nor a person authorised so to do under section 19 (5) (b) or 20 (2) (a) is conducting a residential centre for handicapped persons at the premises to which the licence relates.
- (2) If the Director-General intends to suspend or revoke a licence, the Director-General shall cause to be served on:
  - (a) the licensee, and
  - (b) the licensed manager,

a notice stating that, when 28 days have expired after service of the notice, the Director-General intends to suspend the licence for a period (not exceeding 6 months) specified in the notice or to revoke the licence, as the case may be, on the prescribed grounds specified in the notice, unless it has been established to the Director-General's satisfaction that he or she should not do so.
- (3) When 28 days have expired after a notice has been served under subsection (2) on a licensee and licensed manager, the Director-General may, after considering any

submissions made to him or her during that period by either or both of those persons:

(a) suspend the licence to which the notice relates for the period (not exceeding 6 months) specified in the notice, or

(b) revoke the licence to which the notice relates,

by a further notice served on those persons, which further notice shall specify the prescribed grounds on which the licence is suspended or revoked, as the case may be.

(4) Notwithstanding subsections (2) and (3), where a licensee has requested that his or her licence be suspended or revoked, the Director-General may, by notice served on the licensee and the licensed manager:

(a) suspend the licence for the period (not exceeding 6 months) specified in the notice, or

(b) revoke the licence,

as the case may require.

(5) A licence is deemed not to be in force for any period for which it is suspended.

(6) Where a licence has been suspended under subsection (3) or (4) for a period, the Director-General may, at any time during that period, restore the licence by serving on both the licensee and the licensed manager a notice stating that the licence is restored.

## **19 Permits**

(1) Where:

(a) the Minister refuses a licence under section 12 (2) (b), or

(b) the Director-General suspends or revokes a licence under section 18,

the Minister may issue a permit to the applicant for the licence or the person who was the licensee immediately before his or her licence was suspended or revoked, as the case may require.

(2) A permit issued under subsection (1) shall specify:

(a) the person to whom it is issued,

(b) the premises to which it relates,

(c) the person who is authorised by the permit to have the conduct of a residential centre for handicapped persons at those premises, and

(d) the conditions to which it is subject, including a condition in relation to the

maximum number of persons who may, at the one time, reside at the premises to which it relates.

- (3) Subject to subsection (4), a permit:
  - (a) is in force for such period (not exceeding 6 months) as is specified in the permit, and
  - (b) may be extended, from time to time, by the Minister by notice served on the person to whom the permit was issued for a period (not exceeding 6 months) specified in the notice, but not so that it is in force for a total period of more than 2 years.
- (4) The Minister may, by notice served on the person to whom a permit was issued and the person specified in the permit under subsection (2) (c), revoke the permit:
  - (a) if either of those persons breaches a condition of the permit, or
  - (b) for any other reason the Minister considers sufficient.
- (5) While a permit is in force:
  - (a) the premises specified in the permit under subsection (2) (b) shall be deemed to be licensed premises for the purposes of this Part, and
  - (b) the person specified in the permit under subsection (2) (c) is authorised to have the conduct of a residential centre for handicapped persons at those premises.
- (6) When a permit that has been issued in respect of premises by reason of:
  - (a) the Minister's refusing a licence under section 12 (2) (b), or
  - (b) the Director-General's revoking a licence under section 18,ceases to be in force, the Minister shall:
  - (c) grant a licence for the premises, or
  - (d) refuse a licence for the premises and cause to be served on the applicant for the licence a notice stating the grounds on which the licence has been refused.

## **20 Authority during absences**

- (1) The Minister may, by an instrument in writing, authorise a person specified in the instrument to have the conduct of a residential centre for handicapped persons at licensed premises for a period so specified that occurs during an absence from the premises (by reason of illness or otherwise) of the person who is authorised by a licence or permit for the premises to have the conduct of a residential centre for handicapped persons at those premises.

- (2) While a person is authorised by an instrument referred to in subsection (1) to have the conduct of a residential centre for handicapped persons at any premises:
  - (a) the person so authorised shall, for the purposes of section 22 (1) (b), be deemed to be authorised to have the conduct of a residential centre for handicapped persons at those premises by the licence or permit for those premises, and
  - (b) the conditions of the licence or permit applicable to the person in respect of whose absence the person was so authorised shall, for the purposes of section 22 (2), be deemed to be applicable to him or her as if the person were so authorised by the licence or permit.
- (3) The Minister may, at any time and for any reason he or she considers sufficient, revoke the authority given to a person by an instrument referred to in subsection (1) by notice served on the person and stating that the authority has been revoked.

## **21 Obligations of proprietor**

- (1) In subsection (3), **proprietor**, in relation to licensed premises, includes the licensee for the time being of the premises.
- (2) Subject to section 23, the proprietor of a residential centre for handicapped persons is guilty of an offence if the premises are not licensed for the purposes of this Part.
- (3) Subject to section 23, a proprietor of licensed premises is guilty of an offence if:
  - (a) the premises do not comply with any condition of the licence or permit for the premises, being a condition applicable to them, or
  - (b) he or she contravenes or fails to comply with any condition of the licence or permit for the premises, being a condition applicable to him or her.
- (4) A person who is guilty of an offence under subsection (2) or (3) is liable to a penalty not exceeding \$500 and, in addition, where the offence continues, to a penalty not exceeding \$200 for each day the offence continues.
- (5) Subject to section 23, the licensee of licensed premises shall cause the licence for the premises to be exhibited in a conspicuous position at the premises for so long as the licence is in force.

Penalty for an offence against this subsection: \$200.

## **22 Obligations of manager**

- (1) Subject to section 23, a person shall not have the conduct of a residential centre for handicapped persons unless:
  - (a) the premises are licensed premises, and

(b) the person is authorised so to do by a licence or permit.

- (2) Subject to section 23, a person who is authorised by a licence or permit to have the conduct of a residential centre for handicapped persons shall not contravene or fail to comply with the conditions of the licence or permit, being conditions applicable to the person.
- (3) A person who is guilty of an offence under subsection (1) or (2) is liable to a penalty not exceeding \$500 and, in addition, where the offence continues, to a penalty not exceeding \$200 for each day the offence continues.
- (4) For the purposes of subsection (1), but without affecting the generality of that subsection, a person who is in charge of a residential centre for handicapped persons at any premises shall be deemed to have the conduct of the residential centre at those premises.

### **23 Exemptions**

- (1) The Minister may, by notice served on a person, exempt the person, absolutely or subject to conditions specified in the notice, from the operation of all or any of:
  - (a) the provisions of sections 21 (2), (3) and (5) and 22 (1) and (2), or
  - (b) the conditions of a licence or permit.
- (2) Where a person is exempted from the operation of any provision or condition under subsection (1) subject to a condition, the person is so exempted only while the person does not contravene or fail to comply with the condition.
- (3) If the Minister intends to revoke an exemption given under subsection (1), the Minister shall cause to be served on the person to whom the exemption was given a notice stating that, when 28 days have expired after service of the notice, the Minister intends to revoke the exemption on the grounds specified in the notice unless it has been established to the Minister's satisfaction that the exemption should not be revoked.
- (4) When 28 days have expired after a notice has been served on a person pursuant to subsection (3), the Minister may, after considering any submissions made to the Minister during that period by the person on whom the notice was served, revoke the exemption by a further notice served on that person.

### **24 Application to Administrative Decisions Tribunal for a review of a suspension or revocation of licence**

If the Director-General has, under section 18 (3), suspended or revoked a licence, the licensee or former licensee (as the case may be) may apply to the Administrative Decisions Tribunal for a review of the suspension or revocation of his or her licence unless the licence was suspended or revoked at the request of the licensee or former licensee.

## 25 Power of entry

- (1) In this section, **officer** means an officer or a temporary employee of the Department or an officer or a temporary employee or member of the Health Commission of New South Wales.
- (2) Subject to subsection (5), for the purposes of:
  - (a) making an inquiry under section 11 (2) in respect of any premises,
  - (b) ensuring that this Part and the regulations are being complied with on licensed premises, together with the conditions of the licence or permit for the premises,
  - (c) ensuring that the conditions, if any, of an exemption in force under section 23 are being complied with, or
  - (d) ascertaining whether a breach of this Part or the regulations is being committed with respect to unlicensed premises,any officer may, at any time, enter the premises and inspect them and observe and converse with any person apparently residing at the premises.
- (3) In exercising his or her powers under subsection (2), an officer may be accompanied by a medical practitioner or medical practitioners or a member or members of the police force and any such medical practitioner or medical practitioners may inspect the premises and observe, examine and converse with any person apparently residing at the premises.
- (4) Nothing in this section authorises the examination of a person against his or her will.
- (5) A person may not enter or inspect unlicensed premises pursuant to the power granted him or her by subsection (2) or (3) unless the person does so:
  - (a) for the purpose of making an inquiry under section 11 (2), or
  - (b) under the authority of a warrant issued under subsection (7).
- (6) A person shall not:
  - (a) refuse or fail to admit an officer or other person exercising his or her power of entry under subsection (2) or (3),
  - (b) wilfully obstruct or delay an officer or other person exercising any of his or her powers under subsection (2) or (3).Penalty: \$500.
- (7) Upon complaint made on oath by an officer that the officer suspects on reasonable grounds that a provision of this Part or the regulations has been or is being



contravened within any premises, a Magistrate may issue a warrant authorising an officer or officers named in the warrant, together with any medical practitioner or medical practitioners so named (each of whom may, if the warrant so provides, be accompanied by any member or members of the police force) at any time or times within 14 days from the date of issue of the warrant to enter, if need be by the use of reasonable force, the premises described in the warrant, and to inspect the premises for evidence of such a contravention.

(8) (Repealed)

## **26 Notifications of certain deaths and absences**

- (1) If a handicapped person dies at licensed premises, the licensed manager of the premises shall forthwith give notice of the death to:
  - (a) the member of the police force in charge of the police station nearest the licensed premises, and
  - (b) the Director-General.
- (2) If a handicapped person who has been residing at licensed premises is absent from those premises at any time for more than 24 hours without advising the licensed manager of his or her intended whereabouts at the end of that period of 24 hours, the licensed manager shall, upon the expiration of that period, notify the Director-General of the name of the handicapped person and of his or her absence from the premises.

Penalty: \$200.

## **27 Removal of certain handicapped persons**

Any handicapped person under the age of 18 years who resides at a residential centre for handicapped persons that is not licensed for the purposes of this Part:

- (a) shall, if the whereabouts of his or her parents, guardian or custodian are known, be forthwith removed therefrom by, or by a person on behalf of, his or her parents, guardian or custodian on the request of an officer or employee of the Department, and
- (b) if he or she is not so removed, or if the whereabouts of his or her parents, guardian or custodian are unknown, shall be deemed to be a child in respect of whom grounds exist under section 71 of the *Children and Young Persons (Care and Protection) Act 1998* for the making of a care order and may be dealt with in accordance with Chapter 5 of that Act.

## **Part 4 Miscellaneous**

### **28 Proceedings for offences**

- (1) Proceedings for an offence against this Act or the regulations shall:

- (a) be taken and prosecuted only by a person acting with the authority of the Minister, and
  - (b) be disposed of summarily before the Local Court.
- (2) In proceedings for any such offence, an authority to prosecute, purporting to have been signed by the Minister, shall be evidence of the authority of the Minister without proof of the Minister's signature.
- (3) Any such proceedings may be commenced by information laid within 12 months after the time when the offence is alleged to have been committed.

### **29 Evidence**

In proceedings for an offence against this Act or the regulations, a certificate purporting to be signed by the Director or another prescribed officer or temporary employee of the Department and to certify:

- (a) that a licence or permit was, or was not, in force in respect of any person or premises specified in the certificate on any date, or during any period, so specified,
- (b) that the matter appearing on a licence or permit described in the certificate is identical to matter set out in, or in an instrument appended to, the certificate, or
- (c) that a licence or permit described in the certificate was suspended during a specified period or revoked on a specified date,

is evidence of the facts so certified and, in the absence of evidence to the contrary, is proof of those facts.

### **30 Defence in certain cases**

In any proceedings brought against a person for an offence against this Act or the regulations in which it is alleged that the premises to which the offence relates were a residential centre for handicapped persons at any time by reason of an order in force under section 3A, the premises shall be deemed not to have been a residential centre for handicapped persons at that time if the person satisfies the court:

- (a) that no, or only one, handicapped person resided at the premises at that time, or
- (b) that all of the handicapped persons who resided at the premises at that time resided there with a relative of them who was of or above the age of 18 years but not a handicapped person.

### **31 Assessment of certain removal expenses**

- (1) (Repealed)
- (2) Where a person has been convicted of the offence under section 21 (2) of being the

proprietor of a residential centre for handicapped persons that is unlicensed premises:

(a) a handicapped person:

- (i) who resided at the unlicensed premises when the offence was committed, and
- (ii) who has, on or within 28 days after the date of the offence, moved from the premises to another residence, and

(b) the Director-General, if the Department has incurred expense in connection with the removal of a handicapped person from the unlicensed premises to another residence,

may, within 12 months after the date of the conviction, apply to the Local Court for an assessment of removal expenses under subsection (3).

- (3) If an application is made under subsection (2), the Local Court may make an assessment of an amount that to the court seems a just and reasonable sum to compensate for the removal expenses and any other expense in connection with the removal of the handicapped person incurred by the applicant or the Department, as the case may be, when the handicapped person moved from the unlicensed premises to another residence.
- (4) Where the Local Court makes an assessment under subsection (3), the assessment shall be deemed to be a judgment of the Local Court for the amount in favour of the applicant for the assessment and against the person who was convicted of the offence in respect of which the application was made.

## **32 Regulations**

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Without prejudice to the generality of subsection (1), the Governor may make regulations for or with respect to:
  - (a) the procedures to be observed by councils, committees and other advisory bodies constituted by the Minister under this Act,
  - (b) standards to be observed and facilities to be provided to ensure the health, comfort, safety and proper care of handicapped persons residing at licensed premises,
  - (c) the qualifications and experience of persons employed at licensed premises,
  - (d) the making and keeping of records and the furnishing of returns in respect of licensed premises,

(e) the inspection of licensed premises, and

(f) the form of applications under this Act and of licences and permits.

(3) A regulation may:

(a) apply differently according to such factors as are specified in the regulation,

(b) authorise any thing to be from time to time determined, applied or regulated by a specified person,

(c) provide that the Minister may exempt persons, either absolutely or subject to conditions, from any provision of the regulations, and

(d) impose a penalty not exceeding \$500 for any contravention of a regulation.

### **33 (Repealed)**

### **34 Service of orders and notices**

Any order or notice required or authorised by this Act to be served on a person is sufficiently served if the order or notice (or a copy thereof) is:

(a) delivered personally to the person,

(b) delivered at, or sent by prepaid post to, the last address of the person known to the Director-General, or

(c) left with a person who is apparently:

(i) of or above the age of 16 years, and

(ii) not a handicapped person,

at the premises to which the order or notice relates,

and, where it is sent by post as referred to in paragraph (b), it shall be deemed to have been served at the time it would be delivered in the ordinary course of post.

### **Schedule (Repealed)**