



STATUTORY INSTRUMENTS.

S.I. No. 367 of 2013

HEALTH ACT 2007 (CARE AND SUPPORT OF RESIDENTS IN
DESIGNATED CENTRES FOR PERSONS (CHILDREN AND ADULTS)
WITH DISABILITIES) REGULATIONS 2013

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I, JAMES REILLY, Minister for Health, in exercise of the powers conferred on me by sections 98 and 101 of the Health Act 2007 (No. 23 of 2007) (as adapted by the Health and Children (Alteration of Name of Department and Title of Minister) Order 2011 (S.I. No. 219 of 2011), hereby make the following regulations:

PART 1

PRELIMINARY

Citation and commencement

1. (1) These Regulations may be cited as the Health Act 2007 (Care and Support of Residents in Designated Centres for Persons (Children and Adults) with Disabilities) Regulations 2013.

(2) These Regulations come into operation on 1 November, 2013.

Definitions

2. In these Regulations—

“abuse” means mistreatment of any kind and includes the physical, financial or material, psychological, sexual or discriminatory mistreatment or neglect of a resident;

“Act” means the Health Act 2007 (No. 23 of 2007) as amended;

“advocacy” means a process of empowerment of the person which takes many forms and includes taking action to help communicate wants, secure rights, represent interests or obtain services needed;

“Authority” means the Health Information and Quality Authority;

“Certificate of Registration” means the certificate issued in respect of a designated centre by the chief inspector under the Health Act 2007 (Registration of Designated Centres for Persons (Children and Adults) with Disabilities) Regulations 2013 (S.I. No. 366 of 2013);

“chief inspector” means the Chief Inspector of Social Services as defined in section 40 of the Act;

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“child” means a person under the age of 18 years other than a person who is or has been married;

“communication” means the exchange of information between one person and another that may be written or spoken and may be facilitated through another person or by the use of aids, appliances or assistive technology;

“designated centre” means an institution to which paragraph (a)(ii) of the definition of “designated centre” in section 2(1) of the Act applies;

“Executive” means the Health Service Executive;

“person in charge” means the person appointed as the person in charge of a designated centre pursuant to Regulation 14 and named in the Certificate of Registration issued in respect of the designated centre;

“personal plan” means a plan prepared in accordance with Regulation 5(4);

“personal property and possessions” means the belongings, personal effects and monies that a resident brings into a designated centre and includes

(a) items purchased by or on behalf of the resident, and

(b) items and monies received by the resident,

while residing in the designated centre;

“record” means any record required to be kept or retained in accordance with Regulation 21;

“representative”, in relation to a resident, means a person acting on behalf of that resident for the purpose of representing the will and preferences of the resident and may include a child’s HSE Child and Family Social Worker, a carer of the resident or a person involved in promoting the health, welfare or wellbeing of the resident;

“resident” means an adult or a child being provided with residential services;

“resident’s guide” means the written guide produced in accordance with Regulation 20;

“restrictive procedure” means the intentional restriction of a person’s voluntary movement or behaviour;

“staff” means persons employed by the registered provider and includes persons placed in employment with the registered provider concerned by an employment agency used by that registered provider but does not include—

(a) persons who provide professional services to the designated centre and to whom the registered provider pays fees for such services, or

(b) volunteers;

“standards” means standards set by the Authority under section 8 of the Act and approved by the Minister under section 10 of the Act;

“statement of purpose” means the written statement compiled in accordance with Regulation 3.

PART 2

MAINTENANCE, CARE, SUPPORT AND WELL-BEING OF PERSONS RESIDENT IN A DESIGNATED CENTRE

Statement of purpose

3. (1) The registered provider shall prepare in writing a statement of purpose containing the information set out in Schedule 1.

(2) The registered provider shall review and, where necessary, revise the statement of purpose at intervals of not less than one year.

(3) The registered provider shall make a copy of the statement of purpose available to residents and their representatives.

Written policies and procedures

4. (1) The registered provider shall prepare in writing and adopt and implement policies and procedures on the matters set out in Schedule 5.

(2) The registered provider shall make the written policies and procedures referred to in paragraph (1) available to staff.

(3) The registered provider shall review the policies and procedures referred to in paragraph (1) as often as the chief inspector may require but in any event at intervals not exceeding 3 years and, where necessary, review and update them in accordance with best practice.

Individualised assessment and personal plan

5. (1) The person in charge shall ensure that a comprehensive assessment, by an appropriate health care professional, of the health, personal and social care needs of each resident is carried out—

(a) prior to admission to the designated centre; and

(b) subsequently as required to reflect changes in need and circumstances, but no less frequently than on an annual basis.

(2) The registered provider shall ensure, insofar as is reasonably practicable, that arrangements are in place to meet the needs of each resident, as assessed in accordance with paragraph (1).

(3) The person in charge shall ensure that the designated centre is suitable for the purposes of meeting the needs of each resident, as assessed in accordance with paragraph (1).

(4) The person in charge shall, no later than 28 days after the resident is admitted to the designated centre, prepare a personal plan for the resident which—

- (a) reflects the resident's needs, as assessed in accordance with paragraph (1);
- (b) outlines the supports required to maximise the resident's personal development in accordance with his or her wishes; and
- (c) is developed through a person centred approach with the maximum participation of each resident, and where appropriate his or her representative, in accordance with the resident's wishes, age and the nature of his or her disability.

(5) The person in charge shall make the personal plan available, in an accessible format, to the resident and, where appropriate, his or her representative.

(6) The person in charge shall ensure that the personal plan is the subject of a review, carried out annually or more frequently if there is a change in needs or circumstances, which review shall—

- (a) be multidisciplinary;
- (b) be conducted in a manner that ensures the maximum participation of each resident, and where appropriate his or her representative, in accordance with the resident's wishes, age and the nature of his or her disability;
- (c) assess the effectiveness of the plan; and
- (d) take into account changes in circumstances and new developments.

(7) The recommendations arising out of a review carried out pursuant to paragraph (6) shall be recorded and shall include—

- (a) any proposed changes to the personal plan;
- (b) the rationale for any such proposed changes; and
- (c) the names of those responsible for pursuing objectives in the plan within agreed timescales.

(8) The person in charge shall ensure that the personal plan is amended in accordance with any changes recommended following a review carried out pursuant to paragraph (6).

Health care

6. (1) The registered provider shall provide appropriate health care for each resident, having regard to that resident's personal plan.

(2) The person in charge shall ensure that—

- (a) a medical practitioner of the resident's choice or acceptable to the resident is made available to the resident;
- (b) where medical treatment is recommended and agreed by the resident, such treatment is facilitated;
- (c) the resident's right to refuse medical treatment shall be respected. Such refusal shall be documented and the matter brought to the attention of the resident's medical practitioner;
- (d) when a resident requires services provided by allied health professionals, access to such services is provided by the registered provider or by arrangement with the Executive; and
- (e) residents are supported to access appropriate health information both within the residential service and as available within the wider community.

(3) The person in charge shall ensure that residents receive support at times of illness and at the end of their lives which meets their physical, emotional, social and spiritual needs and respects their dignity, autonomy, rights and wishes.

Positive behavioural support

7. (1) The person in charge shall ensure that staff have up to date knowledge and skills, appropriate to their role, to respond to behaviour that is challenging and to support residents to manage their behaviour.

(2) The person in charge shall ensure that staff receive training in the management of behaviour that is challenging including de-escalation and intervention techniques.

(3) The registered provider shall ensure that where required, therapeutic interventions are implemented with the informed consent of each resident, or his or her representative, and are reviewed as part of the personal planning process.

(4) The registered provider shall ensure that, where restrictive procedures including physical, chemical or environmental restraint are used, such procedures are applied in accordance with national policy and evidence based practice.

(5) The person in charge shall ensure that, where a resident's behaviour necessitates intervention under this Regulation—

- (a) every effort is made to identify and alleviate the cause of the resident's challenging behaviour;
- (b) all alternative measures are considered before a restrictive procedure is used; and

- (c) the least restrictive procedure, for the shortest duration necessary, is used.

Protection

8. (1) The registered provider shall ensure that each resident is assisted and supported to develop the knowledge, self-awareness, understanding and skills needed for self-care and protection.

(2) The registered provider shall protect residents from all forms of abuse.

(3) The person in charge shall initiate and put in place an investigation in relation to any incident, allegation or suspicion of abuse and take appropriate action where a resident is harmed or suffers abuse.

(4) Where the person in charge is the subject of an incident, allegation or suspicion of abuse, the registered provider shall investigate the matter or nominate a third party who is suitable to investigate the matter.

(5) The registered provider shall ensure that where there has been an incident, allegation or suspicion of abuse or neglect in relation to a child the requirements of national guidance for the protection and welfare of children and any relevant statutory requirements are complied with.

(6) The person in charge shall have safeguarding measures in place to ensure that staff providing personal intimate care to residents who require such assistance do so in line with the resident's personal plan and in a manner that respects the resident's dignity and bodily integrity.

(7) The person in charge shall ensure that all staff receive appropriate training in relation to safeguarding residents and the prevention, detection and response to abuse.

(8) The person in charge shall ensure that where children are resident, staff receive training in relevant government guidance for the protection and welfare of children.

Residents' rights

9. (1) The registered provider shall ensure that the designated centre is operated in a manner that respects the age, gender, sexual orientation, disability, family status, civil status, race, religious beliefs and ethnic and cultural background of each resident.

(2) The registered provider shall ensure that each resident, in accordance with his or her wishes, age and the nature of his or her disability—

- (a) participates in and consents, with supports where necessary, to decisions about his or her care and support;
- (b) has the freedom to exercise choice and control in his or her daily life;
- (c) can exercise his or her civil, political and legal rights;

- (d) has access to advocacy services and information about his or her rights; and
- (e) is consulted and participates in the organisation of the designated centre.

(3) The registered provider shall ensure that each resident's privacy and dignity is respected in relation to, but not limited to, his or her personal and living space, personal communications, relationships, intimate and personal care, professional consultations and personal information.

Communication

10. (1) The registered provider shall ensure that each resident is assisted and supported at all times to communicate in accordance with the residents' needs and wishes.

(2) The person in charge shall ensure that staff are aware of any particular or individual communication supports required by each resident as outlined in his or her personal plan.

(3) The registered provider shall ensure that—

- (a) each resident has access to a telephone and appropriate media, such as television, radio, newspapers and internet;
- (b) where required, residents are facilitated to access assistive technology and aids and appliances to promote their full capabilities; and
- (c) where required residents are supported to use assistive technology and aids and appliances.

Visits

11. (1) The registered provider shall facilitate each resident to receive visitors in accordance with the resident's wishes.

(2) The person in charge shall ensure that, as far as reasonably practicable, residents are free to receive visitors without restriction, unless—

- (a) in the opinion of the person in charge, a visit would pose a risk to the resident concerned or to another resident, or
- (b) where the resident has requested the restriction of visits; or
- (c) in the case of a child, where the family/guardian or social worker has so requested; or
- (d) a Court order has required the restriction of visits.

(3) The person in charge shall ensure that having regard to the number of residents and needs of each resident:

- (a) suitable communal facilities are available to receive visitors, and,

- (b) a suitable private area, which is not the resident's room, is available to a resident in which to receive a visitor if required.

Personal possessions

12. (1) The person in charge shall ensure that, as far as reasonably practicable, each resident has access to and retains control of personal property and possessions and, where necessary, support is provided to manage their financial affairs.

(2) The person in charge shall ensure that, as far as reasonably practicable, residents can bring their own furniture and furnishings into the rooms they occupy.

(3) The person in charge shall ensure that—

(a) each resident uses and retains control over his or her clothes;

(b) each resident is supported to manage his or her laundry in accordance with his or her needs and wishes;

(c) where necessary, each resident's linen and clothes are laundered regularly and returned to that resident; and

(d) each resident has adequate space to store and maintain his or her clothes and personal property and possessions.

(4) The registered provider shall ensure that he or she, or any staff member, shall not pay money belonging to any resident into an account held in a financial institution unless—

(a) the consent of the person has been obtained; and

(b) the account is in the name of the resident to which the money belongs; and

(c) the account is not used by the registered provider in connection with the carrying on or management of the designated centre.

General welfare and development

13. (1) The registered provider shall provide each resident with appropriate care and support in accordance with evidence-based practice, having regard to the nature and extent of the resident's disability and assessed needs and his or her wishes.

(2) The registered provider shall provide the following for residents:

(a) access to facilities for occupation and recreation;

(b) opportunities to participate in activities in accordance with their interests, capacities and developmental needs; and

- (c) supports to develop and maintain personal relationships and links with the wider community in accordance with their wishes.
- (3) The registered provider shall ensure that, where children are accommodated in the designated centre, each child has—
- (a) opportunities for play;
 - (b) age-appropriate opportunities to be alone; and
 - (c) opportunities to develop life skills and help preparing for adulthood.
- (4) The person in charge shall ensure that—
- (a) residents are supported to access opportunities for education, training and employment;
 - (b) where residents are in transition between services, continuity of education, training and employment is maintained;
 - (c) when children enter residential services their assessment includes appropriate education attainment targets; and
 - (d) children approaching school-leaving age are supported to participate in third level education or relevant training programmes as appropriate to their abilities and interests.

PART 3

STAFF

Person in charge

14. (1) The registered provider shall appoint a person in charge of the designated centre.
- (2) The post of person in charge shall be full-time and shall require the qualifications, skills and experience necessary to manage the designated centre, having regard to the size of the designated centre, the statement of purpose, and the number and needs of the residents.
- (3) A person who is appointed as person in charge on or after the day which is 3 years after the day on which these Regulations come into operation shall have—
- (a) a minimum of 3 years' experience in a management or supervisory role in the area of health or social care; and
 - (b) an appropriate qualification in health or social care management at an appropriate level.
- (4) A person may be appointed as person in charge of more than one designated centre if the chief inspector is satisfied that he or she can ensure the

effective governance, operational management and administration of the designated centres concerned.

(5) The registered provider shall ensure that he or she has obtained, in respect of the person in charge, the information and documents specified in Schedule 2.

Staffing

15. (1) The registered provider shall ensure that the number, qualifications and skill mix of staff is appropriate to the number and assessed needs of the residents, the statement of purpose and the size and layout of the designated centre.

(2) The registered provider shall ensure that where nursing care is required, subject to the statement of purpose and the assessed needs of residents, it is provided.

(3) The registered provider shall ensure that residents receive continuity of care and support, particularly in circumstances where staff are employed on a less than full-time basis.

(4) The person in charge shall ensure that there is a planned and actual staff rota, showing staff on duty during the day and night and that it is properly maintained.

(5) The person in charge shall ensure that he or she has obtained in respect of all staff the information and documents specified in Schedule 2.

Training and staff development

16. (1) The person in charge shall ensure that—

- (a) staff have access to appropriate training, including refresher training, as part of a continuous professional development programme;
- (b) staff are appropriately supervised; and
- (c) staff are informed of the Act and any regulations and standards made under it.

(2) The person in charge shall ensure that copies of the following are made available to staff:

- (a) the Act and any regulations made under it;
- (b) standards set by the Authority under section 8 of the Act and approved by the Minister under section 10 of the Act; and
- (c) relevant guidance issued from time to time by statutory and professional bodies.

PART 4

PREMISES

Premises

17. (1) The registered provider shall ensure the premises of the designated centre are—

- (a) designed and laid out to meet the aims and objectives of the service and the number and needs of residents;
- (b) of sound construction and kept in a good state of repair externally and internally; and
- (c) clean and suitably decorated.

(2) The registered provider shall ensure that where the designated centre accommodates adults and children, sleeping accommodation is provided separately and decorated in an age-appropriate manner.

(3) The registered provider shall ensure that where children are accommodated in the designated centre appropriate outdoor recreational areas are provided which have age-appropriate play and recreational facilities.

(4) The registered provider shall ensure that such equipment and facilities as may be required for use by residents and staff shall be provided and maintained in good working order. Equipment and facilities shall be serviced and maintained regularly, and any repairs or replacements shall be carried out as quickly as possible so as to minimise disruption and inconvenience to residents.

(5) The registered provider shall ensure that the premises of the designated centre are equipped, where required, with assistive technology, aids and appliances to support and promote the full capabilities and independence of residents.

(6) The registered provider shall ensure that the designated centre adheres to best practice in achieving and promoting accessibility. He, or she, regularly reviews its accessibility with reference to the statement of purpose and carries out any required alterations to the premises of the designated centre to ensure it is accessible to all.

(7) The registered provider shall make provision for the matters set out in Schedule 6.

PART 5

FOOD AND NUTRITION

Food and nutrition

18. (1) The person in charge shall, so far as reasonable and practicable, ensure that—

- (a) residents are supported to buy, prepare and cook their own meals if they so wish; and
 - (b) there is adequate provision for residents to store food in hygienic conditions.
- (2) The person in charge shall ensure that each resident is provided with adequate quantities of food and drink which—
- (a) are properly and safely prepared, cooked and served;
 - (b) are wholesome and nutritious;
 - (c) offers choice at mealtimes; and
 - (d) are consistent with each resident's individual dietary needs and preferences.
- (3) The person in charge shall ensure that where residents require assistance with eating or drinking, that there is a sufficient number of trained staff present when meals and refreshments are served to offer assistance in an appropriate manner.
- (4) The person in charge shall ensure that residents have access to meals, refreshments and snacks at all reasonable times as required.

PART 6

INFORMATION AND RECORDS

Directory of residents

19. (1) The registered provider shall establish and maintain a directory of residents in the designated centre.
- (2) The directory established under paragraph (1) shall be made available, when requested, to the chief inspector.
- (3) The directory shall include the information specified in paragraph (3) of Schedule 3.

Information for residents

20. (1) The registered provider shall prepare a guide in respect of the designated centre and ensure that a copy is provided to each resident.
- (2) The guide prepared under paragraph (1) shall include—
- (a) a summary of the services and facilities provided;
 - (b) the terms and conditions relating to residency;
 - (c) arrangements for resident involvement in the running of the centre;

- (d) how to access any inspection reports on the centre;
- (e) the procedure respecting complaints; and
- (f) arrangements for visits.

Records

21. (1) The registered provider shall ensure that—

- (a) records of the information and documents in relation to staff specified in Schedule 2;
- (b) records in relation to each resident as specified in Schedule 3; and
- (c) the additional records specified in Schedule 4

are maintained and are available for inspection by the chief inspector.

(2) Records kept in accordance with this section and set out in Schedule 2 shall be retained for a period of not less than 7 years after the staff member has ceased to be employed in the designated centre.

(3) Records kept in accordance with this section and set out in Schedule 3 shall be retained for a period of not less than 7 years after the resident has ceased to reside in the designated centre.

(4) Records kept in accordance with this section and set out in paragraphs (6), (11), (12), (13), and (14) of Schedule 4, shall be retained for a period of not less than 4 years from the date of their making.

(5) Records kept in accordance with this section and set out in paragraphs (7), (8), (9), and (10) of Schedule 4, shall be retained for a period of not less than 7 years from the date of their making.

(6) Notwithstanding paragraphs (3) and (5) of this regulation, records related to children in care shall be kept in perpetuity and transferred to the Executive not later than 7 years from the date on which the child ceased to reside in the designated centre.

Insurance

22. (1) The registered provider shall effect a contract of insurance against injury to residents.

(2) The registered provider may insure against other risks in the designated centre, including loss or damage to property and where such insurance is effected the residents shall be advised accordingly.

PART 7

MANAGEMENT AND CONTROL OF OPERATIONS

Governance and management

23. (1) The registered provider shall ensure that—
- (a) the designated centre is resourced to ensure the effective delivery of care and support in accordance with the statement of purpose;
 - (b) there is a clearly defined management structure in the designated centre that identifies the lines of authority and accountability, specifies roles, and details responsibilities for all areas of service provision;
 - (c) management systems are in place in the designated centre to ensure that the service provided is safe, appropriate to residents' needs, consistent and effectively monitored;
 - (d) there is an annual review of the quality and safety of care and support in the designated centre and that such care and support is in accordance with standards;
 - (e) that the review referred to in subparagraph (d) shall provide for consultation with residents and their representatives; and
 - (f) that a copy of the review referred to in subparagraph (d) is made available to residents and, if requested, to the chief inspector.
- (2) The registered provider, or a person nominated by the registered provider, shall carry out an unannounced visit to the designated centre at least once every six months or more frequently as determined by the chief inspector and shall—
- (a) prepare a written report on the safety and quality of care and support provided in the centre and put a plan in place to address any concerns regarding the standard of care and support; and
 - (b) maintain a copy of the report made under subparagraph (a) and make it available on request to residents and their representatives and the chief inspector.
- (3) The registered provider shall ensure that effective arrangements are in place to—
- (a) support, develop and performance manage all members of the workforce to exercise their personal and professional responsibility for the quality and safety of the services that they are delivering; and
 - (b) facilitate staff to raise concerns about the quality and safety of the care and support provided to residents.

Admissions and contract for the provision of services

24. (1) The registered provider shall ensure that—

- (a) each application for admission to the designated centre is determined on the basis of transparent criteria in accordance with the statement of purpose; and
- (b) admission policies and practices take account of the need to protect residents from abuse by their peers.

(2) The person in charge shall ensure that each prospective resident and his or her family or representative are provided with an opportunity to visit the designated centre, as far as is reasonably practicable, before admission of the prospective resident to the designated centre.

(3) The registered provider shall, on admission, agree in writing with each resident, or their representative where the resident is not capable of giving consent, the terms on which that resident shall reside in the designated centre.

(4) The agreement referred to in paragraph (3) shall—

- (a) include the support, care and welfare of the resident in the designated centre and details of the services to be provided for that resident and, where appropriate, the fees to be charged; and
- (b) provide for, and be consistent with, the resident's needs as assessed in accordance with Regulation 5(1) and the statement of purpose.

Temporary absence, transition and discharge of residents

25. (1) The person in charge shall ensure that, where a resident is temporarily absent from the designated centre, relevant information about the resident is provided to the person taking responsibility for the care, support and wellbeing of the resident at the receiving designated centre, hospital or other place.

(2) When a resident returns from another designated centre, hospital or other place, the person in charge of the designated centre from which the resident was temporarily absent shall take all reasonable actions to ensure that all relevant information about the resident is obtained from the person responsible for the care, support and wellbeing of the resident at the other designated centre, hospital or other place.

(3) The person in charge shall ensure that residents receive support as they transition between residential services or leave residential services through:

- (a) the provision of information on the services and supports available; and
- (b) where appropriate, the provision of training in the life-skills required for the new living arrangement.

(4) The person in charge shall ensure that the discharge of a resident from the designated centre—

- (a) is determined on the basis of transparent criteria in accordance with the statement of purpose;
- (b) take place in a planned and safe manner;
- (c) is in accordance with the resident's needs as assessed in accordance with Regulation 5(1) and the resident's personal plans;
- (d) is discussed, planned for and agreed with the resident and, where appropriate, with the resident's representative; and
- (e) is in accordance with the terms and conditions of the agreement referred to in Regulation 24(3).

Risk management procedures

26. (1) The registered provider shall ensure that the risk management policy, referred to in paragraph 16 of Schedule 5, includes the following:

- (a) hazard identification and assessment of risks throughout the designated centre;
- (b) the measures and actions in place to control the risks identified;
- (c) the measures and actions in place to control the following specified risks:
 - (i) the unexpected absence of any resident,
 - (ii) accidental injury to residents, visitors or staff,
 - (iii) aggression and violence, and
 - (iv) self-harm;
- (d) arrangements for the identification, recording and investigation of, and learning from, serious incidents or adverse events involving residents; and
- (e) arrangements to ensure that risk control measures are proportional to the risk identified, and that any adverse impact such measures might have on the resident's quality of life have been considered.

(2) The registered provider shall ensure that there are systems in place in the designated centre for the assessment, management and ongoing review of risk, including a system for responding to emergencies.

(3) The registered provider shall ensure that all vehicles used to transport residents, where these are provided by the registered provider, are roadworthy,

regularly serviced, insured, equipped with appropriate safety equipment and driven by persons who are properly licensed and trained.

Protection against infection

27. The registered provider shall ensure that residents who may be at risk of a healthcare associated infection are protected by adopting procedures consistent with the standards for the prevention and control of healthcare associated infections published by the Authority.

Fire precautions

28. (1) The registered provider shall ensure that effective fire safety management systems are in place.

(2) The registered provider shall—

(a) take adequate precautions against the risk of fire in the designated centre, and, in that regard, provide suitable fire fighting equipment, building services, bedding and furnishings;

(b) make adequate arrangements for—

(i) maintaining of all fire equipment, means of escape, building fabric and building services,

(ii) reviewing fire precautions, and

(iii) testing fire equipment; and

(c) provide adequate means of escape, including emergency lighting.

(3) The registered provider shall make adequate arrangements for—

(a) detecting, containing and extinguishing fires;

(b) giving warning of fires;

(c) calling the fire service; and

(d) evacuating, where necessary in the event of fire, all persons in the designated centre and bringing them to safe locations.

(4) The registered provider shall—

(a) make arrangements for staff to receive suitable training in fire prevention, emergency procedures, building layout and escape routes, location of fire alarm call points and first aid fire fighting equipment, fire control techniques and arrangements for the evacuation of residents; and

(b) ensure, by means of fire safety management and fire drills at suitable intervals, that staff and, in so far as is reasonably practicable, residents, are aware of the procedure to be followed in the case of fire.

(5) The person in charge shall ensure that the procedures to be followed in the event of fire are displayed in a prominent place and/or are readily available as appropriate in the designated centre.

Medicines and pharmaceutical services

29. (1) The registered provider shall ensure that a pharmacist of the resident's choice, in so far as is practicable, or a pharmacist acceptable to the resident, is made available to each resident.

(2) The person in charge shall facilitate a pharmacist made available under paragraph (1) in meeting his or her obligations to the resident under any relevant legislation or guidance issued by the Pharmaceutical Society of Ireland. The person in charge shall provide appropriate support for the resident if required, in his/her dealings with the pharmacist.

(3) The person in charge shall ensure that, where a pharmacist provides a record of a medication-related intervention in respect of a resident, such record is kept in a safe and accessible place in the designated centre.

(4) The person in charge shall ensure that the designated centre has appropriate and suitable practices relating to the ordering, receipt, prescribing, storing, disposal and administration of medicines to ensure that—

- (a) any medicine that is kept in the designated centre is stored securely;
- (b) medicine which is prescribed is administered as prescribed to the resident for whom it is prescribed and to no other resident;
- (c) out of date or returned medicines are stored in a secure manner that is segregated from other medicinal products, and are disposed of and not further used as medicinal products in accordance with any relevant national legislation or guidance; and
- (d) storage and disposal of out of date, or unused, controlled drugs shall be in accordance with the relevant provisions in the Misuse of Drugs Regulations 1988 (S.I. No. 328 of 1988), as amended.

(5) The person in charge shall ensure that following a risk assessment and assessment of capacity, each resident is encouraged to take responsibility for his or her own medication, in accordance with his or her wishes and preferences and in line with his or her age and the nature of his or her disability.

Volunteers

30. The person in charge shall ensure that volunteers with the designated centre—

- (a) have their roles and responsibilities set out in writing;
- (b) receive supervision and support; and

- (c) provide a vetting disclosure in accordance with the National Vetting Bureau (Children and Vulnerable Persons) Act 2012 (No. 47 of 2012).

PART 8

NOTIFICATION OF INCIDENTS

Notification of incidents

31. (1) The person in charge shall give the chief inspector notice in writing within 3 working days of the following adverse incidents occurring in the designated centre:

- (a) the unexpected death of any resident, including the death of any resident following transfer to hospital from the designated centre;
- (b) an outbreak of any notifiable disease as identified and published by the Health Protection Surveillance Centre;
- (c) any fire, any loss of power, heating or water, and any incident where an unplanned evacuation of the centre took place;
- (d) any serious injury to a resident which requires immediate medical or hospital treatment;
- (e) any unexplained absence of a resident from the designated centre;
- (f) any allegation, suspected or confirmed, of abuse of any resident;
- (g) any allegation of misconduct by the registered provider or by staff; and
- (h) any occasion where the registered provider becomes aware that a member of staff is the subject of review by a professional body;

(2) In the case of an unexpected death notified to the chief inspector pursuant to paragraph (1)(a) the person in charge shall also ensure that written notice is provided to the chief inspector setting out the cause of the death when same has been established.

(3) The person in charge shall ensure that a written report is provided to the chief inspector at the end of each quarter of each calendar year in relation to and of the following incidents occurring in the designated centre:

- (a) any occasion on which a restrictive procedure including physical, chemical or environmental restraint was used;
- (b) any occasion on which the fire alarm equipment was operated other than for the purpose of fire practice, drill or test of equipment;
- (c) where there is a recurring pattern of theft or burglary;
- (d) any injury to a resident not required to be notified under paragraph (1)(d);

(e) any deaths, including cause of death, not required to be notified under paragraph (1)(a); and

(f) any other adverse incident the chief inspector may prescribe.

(4) Where no incidents which require to be notified under (1), (2) or (3) have taken place, the registered provider shall notify the chief inspector of this fact on a six monthly basis.

(5) This regulation is without prejudice to the reporting requirements as set out in the Authority's Guidance for the Health Service Executive for the Review of Serious Incidents including Deaths of Children in Care and any other relevant guidance.

PART 9

NOTIFICATION OF ABSENCE OF PERSON IN CHARGE AND PROCEDURES AND ARRANGEMENTS FOR SUCH ABSENCE

Notification of periods when person in charge is absent

32. (1) Where the person in charge proposes to be absent from the designated centre for a continuous period of 28 days or more, the registered provider shall give notice in writing to the chief inspector of the proposed absence.

(2) Except in the case of an emergency, the notice referred to in paragraph (1) shall be given no later than one month before the proposed absence commences or within such shorter period as may be agreed with the chief inspector and the notice shall specify—

(a) the length or expected length of the absence; and

(b) the expected dates of departure and return.

(3) Where the person in charge is absent from the designated centre as a result of an emergency or unanticipated event, the registered provider shall, as soon as it becomes apparent that the absence concerned will be for a period of 28 days or more, give notice in writing to the chief inspector of the absence, including the information referred to in paragraph (2).

(4) Where an absence referred to in paragraph (3) has occurred, the registered provider shall notify the chief inspector of the return to duty of the person in charge not later than 3 working days after the date of his or her return.

Notification of procedures and arrangements for periods when person in charge is absent

33. (1) Where the registered provider gives notice of the absence of the person in charge from the designated centre under Regulation 32, he or she shall give notice in writing to the chief inspector of the procedures and arrangements that will be in place for the management of the designated centre during the said absence.

- (2) The notice referred to in paragraph (1) shall specify—
- (a) the arrangements which have been or were made for the running of the designated centre during the absence of the person in charge;
 - (b) the arrangements that have been, or are proposed to be, made for appointing another person in charge to manage the designated centre during that absence, including the proposed date by which the appointment is to be made; and
 - (c) the name, contact details and qualifications of the person who was or will be responsible for the designated centre during the absence.

PART 10

COMPLAINTS PROCEDURES

Complaints procedure

34. (1) The registered provider shall provide an effective complaints procedure for residents which is in an accessible and age-appropriate format and includes an appeals procedure, and shall—

- (a) ensure that the procedure is appropriate to the needs of residents in line with each resident's age and the nature of his or her disability;
 - (b) make each resident and their family aware of the complaints procedure as soon as is practicable after admission;
 - (c) ensure the resident has access to advocacy services for the purposes of making a complaint; and
 - (d) display a copy of the complaints procedure in a prominent position in the designated centre.
- (2) The registered provider shall ensure that—
- (a) a person who is not involved in the matters the subject of complaint is nominated to deal with complaints by or on behalf of residents;
 - (b) all complaints are investigated promptly;
 - (c) complainants are assisted to understand the complaints procedure;
 - (d) the complainant is informed promptly of the outcome of his or her complaint and details of the appeals process;
 - (e) any measures required for improvement in response to a complaint are put in place; and
 - (f) the nominated person maintains a record of all complaints including details of any investigation into a complaint, outcome of a complaint,

any action taken on foot of a complaint and whether or not the resident was satisfied.

(3) The registered provider shall nominate a person, other than the person nominated in paragraph 2(a), to be available to residents to ensure that:

(a) all complaints are appropriately responded to; and

(b) the person nominated under paragraph (2)(a) maintains the records specified under paragraph (2)(f).

(4) The registered provider shall ensure that any resident who has made a complaint is not adversely affected by reason of the complaint having been made.

Regulation 3

SCHEDULE 1

INFORMATION TO BE INCLUDED IN THE STATEMENT OF PURPOSE

Registration details

1. The information set out in the Certificate of Registration.

Services and facilities provided in the designated centre

2. Information regarding the following:

- (a) the specific care and support needs that the designated centre is intended to meet;
- (b) the facilities which are to be provided by the registered provider to meet those care and support needs;
- (c) the services which are to be provided by the registered provider to meet those care and support needs; and
- (d) criteria used for admission to the designated centre, including the designated centre's policy and procedures (if any) for emergency admissions.

3. The number, age range and gender of the residents for whom it is intended that accommodation should be provided.

4. A description (either in narrative form or a floor plan) of the rooms in the designated centre including their size and primary function.

5. Any separate facilities for day care.

Management and staffing

6. The total staffing complement, in full-time equivalents, for the designated centre with the management and staffing complements as required in Regulations 14 and 15.

7. The organisational structure of the designated centre.

Residents' wellbeing and safety

8. The arrangements made for dealing with reviews and development of a resident's personal plan.

9. Details of any specific therapeutic techniques used in the designated centre and arrangements made for their supervision.

10. The arrangements made for respecting the privacy and dignity of residents.
11. The arrangements for residents to engage in social activities, hobbies and leisure interests.
12. The arrangements for residents to access education, training and employment.
13. The arrangements made for consultation with, and participation of, residents in the operation of the designated centre.
14. The arrangements made for residents to attend religious services of their choice.
15. The arrangements made for contact between residents and their relatives, friends, representatives and the local community. These arrangements also include contact between a child in care and his/her HSE Child and Family Social Worker.
16. The arrangements made for dealing with complaints.
17. The fire precautions and associated emergency procedures in the designated centre.

SCHEDULE 2

INFORMATION AND DOCUMENTS TO BE OBTAINED IN RESPECT OF STAFF, CURRENTLY AND PREVIOUSLY EMPLOYED AT THE DESIGNATED CENTRE

1. A record of all persons, currently and previously, employed at the designated centre, including in respect of each person so employed:
 - a) full name, address and date of birth of each person;
 - b) evidence of the person's identity, including a recent photograph;
 - c) the dates on which he or she commenced and ceased employment (if relevant);
 - d) a vetting disclosure in accordance with the National Vetting Bureau (Children and Vulnerable Persons) Act 2012;
 - e) details and documentary evidence of any relevant qualifications or accredited training of the person;
 - f) relevant current registration status with professional bodies in respect of nursing and other health and social care professionals employed in the designated centre;
 - g) a full employment history, together with a satisfactory history of any gaps in employment;
 - h) details of any previous experience (if any) of carrying on the business of a designated centre;
 - i) two written references including a reference from a person's most recent employer (if any). Where a format has been specified by the chief inspector the references should be in that format;
 - j) the position the person holds, or held, at the designated centre, the work the person performs/performed and the number of hours the person the person is or was employed each week; and
 - k) correspondence, reports, records of disciplinary action and any other records in relation to his or her employment.

SCHEDULE 3

RECORDS TO BE KEPT IN DESIGNATED CENTRE IN RESPECT OF EACH RESIDENT

1. The assessment of the resident's need under Regulation 5(1) and his or her personal plan.
2. A recent photograph of the resident.
3. A record of the following matters in respect of each resident in the directory of residents established under Regulation 19(1):
 - (a) the name, address, date of birth, sex, and marital status of the resident;
 - (b) the name, address and telephone number of the resident's next of kin or representative;
 - (c) the name, address and telephone number of the resident's general practitioner and of any officer of the Executive whose duty it is to supervise the welfare of the resident;
 - (d) the date on which the resident first came to reside in the designated centre;
 - (e) the name and address of any authority, organisation or other body, which arranged the resident's admission to the designated centre;
 - (f) the medical, nursing and psychiatric (where appropriate) condition of the resident at the time of admission;
 - (g) all nursing or medical care provided to the resident, including a record of the resident's condition and any treatment or other intervention.
 - (h) where residents have not chosen to take personal responsibility for his/her own medication, each drug and medicine administered to the resident, giving the date of the prescription, the dosage, the name of the drug or medicine, the method of administration, signed and dated by a medical practitioner or the nurse or staff member administering the drug or medicine in accordance with any relevant professional guidelines;
 - (i) any decision by the resident not to receive certain medical treatments and a record of any occasion where the resident refused treatment;
 - (j) on-going medical assessment, treatment and care provided by the resident's medical practitioner where that information is available;
 - (k) any medication errors or adverse reactions in relation to the resident;
 - (l) all referrals and follow-up appointments in respect of the resident;

- (m) any occasion on which restrictive procedures, including physical, chemical or environmental restraint, were used in respect of the resident, the reason for its use, the interventions tried to manage the behaviour, the nature of the restrictive procedure and its duration;
 - (n) any incident in the designated centre in which the resident suffers abuse or harm, including the nature, date and time of the incident, whether medical treatment was required, the names of the persons who were respectively in charge of the designated centre and supervising the resident and the names and contact details of any witnesses;
 - (o) details of any specialist communication needs and methods of communication that may be appropriate in respect of the resident;
 - (p) all money or other valuables deposited by the resident for safekeeping or received on the resident's behalf, including—
 - (i) the date on which the money or valuables were deposited or received, the date on which any money or valuables were returned to the resident or used, at the request of the resident, on his or her behalf; and
 - (ii) a written acknowledgement of the return of the money or valuables; and
 - (q) a record of furniture brought by the resident into the room occupied by him or her.
4. A copy of correspondence to or from the designated centre relating to each resident.

Regulation 21

SCHEDULE 4

OTHER RECORDS TO BE KEPT IN RESPECT OF THE DESIGNATED CENTRE

General Records

1. A copy of the current statement of purpose.
2. A copy of the current resident's guide.
3. A copy of all inspection reports.

Charges

4. A record of the designated centre's charges to residents, including any extra amounts payable for additional services not covered by those charges, and the amounts paid by or in respect of each resident.

Food

5. Where the registered provider provides food, records of the food provided for residents in sufficient detail to enable any person inspecting the record to determine whether the diet is satisfactory, in relation to nutrition and otherwise, and of any special diets prepared for individual residents.

Complaints

6. A record of all complaints made by residents or representatives or relatives of residents or by persons working at the designated centre about the operation of the designated centre, and the action taken by the registered provider in respect of any such complaint.

Residents

7. If the resident was discharged from the designated centre, the date on which he or she was discharged.
8. If the resident was transferred to another designated centre or to a hospital, the name of the designated centre or hospital and the date on which the resident was transferred.
9. Any dates during which the resident was not residing at the centre.

Notifications under Regulation 31

10. A record of any of the following incidents occurring in the designated centre:
 - (a) the death of any resident, including the death of any resident following transfer to hospital from the designated centre and the date, time, circumstances and medical cause of death when established;

- (b) an outbreak of any notifiable disease as identified and published by the Health Protection Surveillance Centre.
 - (c) any serious injury to a resident which requires hospital treatment;
 - (d) any unexplained absence of a resident from the designated centre;
 - (e) any allegation, suspected or confirmed of abuse of any resident;
 - (f) any allegation of misconduct by the registered provider or any person who works in the designated centre;
 - (g) any occasion where the registered provider became aware that a member of staff is the subject of review by a professional body;
 - (h) any occasion on which a restrictive procedure including physical, chemical or environmental restraint was used;
 - (i) any fire, or loss of power, heating or water;
 - (j) any incident where an unplanned evacuation of the designated centre took place;
 - (k) any occasion on which the fire alarm equipment was operated other than for the purpose of fire practice, drill or test of equipment;
 - (l) a recurring pattern of theft or burglary; and
 - (m) any other adverse incident, as directed by the chief inspector.
11. A copy of the duty roster of persons working at the designated centre, and a record of whether the roster was actually worked.
12. A record of attendance at staff training and development

Fire Safety

- 13. A record of each fire practice, drill or test of fire equipment (including fire alarm equipment) conducted in the designated centre and of any action taken to remedy any defects found in the fire equipment.
- 14. A record of the number, type and maintenance record of fire-fighting equipment.

Regulation 4

SCHEDULE 5

POLICIES AND PROCEDURES TO BE MAINTAINED IN RESPECT OF THE DESIGNATED
CENTRE

1. The prevention, detection and response to abuse, including reporting of concerns and/or allegations of abuse to statutory agencies.
2. Admissions, including transfers, discharge and the temporary absence of residents.
3. Incidents where a resident goes missing.
4. Provision of personal intimate care.
5. Provision of behavioural support.
6. The use of restrictive procedures and physical, chemical and environmental restraint.
7. Residents' personal property, personal finances and possessions.
8. Communication with residents.
9. Visitors.
10. Recruitment, selection and Garda vetting of staff.
11. Staff training and development.
12. Monitoring and documentation of nutritional intake.
13. Provision of information to residents.
14. The creation of, access to, retention of, maintenance of and destruction of records.
15. Health and safety, including food safety, of residents, staff and visitors.
16. Risk management and emergency planning.
17. Medication management.
18. The handling and investigation of complaints from any person about any aspects of service, care, support and treatment provided in, or on behalf of a designated centre.
19. Education policy which complies with relevant legislation in respect of the education needs of children with disabilities (in centres where children reside).

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20. Access to education, training and development.

21. CCTV (in designated centres where CCTV systems are in use).

Regulation 17

SCHEDULE 6

MATTERS TO BE PROVIDED FOR IN PREMISES OF DESIGNATED CENTRE

1. Adequate private and communal accommodation for residents, including adequate social, recreational, dining and private accommodation.
2. Rooms of a suitable size and layout suitable for the needs of residents.
3. Adequate space and suitable storage facilities, insofar as is reasonably practicable, for the personal use of residents.
4. Communal space for residents suitable for social, cultural and religious activities appropriate to the circumstances of residents.
5. Suitable storage.
6. Ventilation, heating and lighting suitable for residents in all parts of the designated centre which are used by residents.
7. A separate kitchen area with suitable and sufficient cooking facilities, kitchen equipment and tableware.
8. Baths, showers and toilets of a sufficient number and standard suitable to meet the needs of residents.
9. Suitable arrangements for the safe disposal of general and clinical waste where required.
10. Adequate facilities, insofar as is reasonably practicable, for residents to launder their own clothes if they so wish.



GIVEN under my Official Seal,
29 October 2013.

JAMES REILLY,
Minister for Health.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations set down requirements in relation to the maintenance, care, support, and well being of residents, the staff employed at such centres, the premises of such centres, the food served to residents, the information and records to be kept, the management and control of operations, the notification of incidents and complaints.

These Regulations are made under sections 98 and 101 of the Health Act 2007.

These Regulations may be cited as the Health Act 2007 (Care and Support of Residents in Designated Centres for Persons (Children and Adults) with Disabilities) Regulations 2013.

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