

1955/98



THE INTELLECTUALLY HANDICAPPED PERSONS HOMES
REGULATIONS 1955

C. W. M. NORRIE, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington this 13th day of July 1955

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Mental Health Act 1911, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

1. These regulations may be cited as the Intellectually Handicapped Persons Homes Regulations 1955.

2. In these regulations, unless the context otherwise requires,—

“Director” means the Director of the Division of Mental Hygiene of the Department of Health; and includes the Deputy Director acting pursuant to section 5 of the Mental Health Amendment Act 1928:

“Intellectually handicapped person” means any person who, by reason of a condition of arrested or incomplete development of mind existing before he attains or attained the age of eighteen years, whether arising from inherent causes or induced by disease or injury, is incapable of earning his own living, or, if of school age or younger, presumably will be incapable when older of earning his own living:

“Licensed home” means any home that is maintained for the reception and care of intellectually handicapped persons and in respect of which a licence is for the time being in force under these regulations:

“Licensee” means any society being the holder of a licence for the time being in force under these regulations:

“Minister” means the Minister of Health:

“Society” means any society incorporated under the Incorporated Societies Act 1908 and having as one of its objects the establishment and maintenance of a home or homes for the reception and care of intellectually handicapped persons.

Licences for Homes

3. (1) Subject to the provisions of these regulations, the Director may grant to any society a licence to establish and maintain a home for the reception and care of intellectually handicapped persons pursuant to section 3 of the Mental Health Amendment Act 1954.

(2) Every such licence shall specify the number of intellectually handicapped persons that may be received and kept in the home at any one time; and may specify the number of persons of each sex that may be so received and kept.

(3) The Director may from time to time, by endorsement on the licence or by notice in writing given to the licensee, amend any licence granted under this regulation with respect to the number of persons, or the number of persons of each sex, that may be so received and kept.

(4) If for any reason the Director is of opinion that a licence should not be granted in respect of any proposed home for the reception and care of intellectually handicapped persons, he shall refer the application for the licence to the Minister, who may in his discretion direct that a licence be refused or that a licence be granted. In any such case the Minister's decision shall be final. This subclause shall not apply to any home in respect of which, on compliance with these regulations, a licence is to be granted under section 3 (6) of the Mental Health Amendment Act 1954.

4. (1) Every application for a licence shall be made in writing to the Director by or on behalf of the society, and shall contain or be accompanied by the following particulars:

(a) The full name and address of the society, and the full name, address, and occupation of the person signing the application on behalf of the society:

(b) A statement of the estate or interest of the society in the proposed home:

(c) A description of the land on which the proposed home is situated or is to be situated:

(d) A statement of the number of persons proposed to be received in the home:

(e) A statement whether the home is for the reception of persons of the male sex or of the female sex or of both sexes; and, if for the reception of persons of both sexes, a statement of the number of persons of each sex proposed to be received and of the means by which persons of one sex may be kept apart from persons of the other sex:

(f) A plan of the buildings, on a scale of not less than 8 ft. to the inch, together with a full description of the drainage and sanitary arrangements, and of the situation of the buildings; and a statement of the length, breadth, and height of every room and apartment therein, and a reference by a figure or letter to every such room or apartment; and a statement of the use to which every such room or apartment is intended to be put:

(g) A plan, on a scale of not less than 20 chains to the inch, of the land to be used or occupied in connection with the home, showing the position of the buildings, together with a statement of the area of land that is not covered by any building and that is to be appropriated to the exclusive use, exercise, and recreation of the inmates.

(2) The society shall from time to time, on the request in writing of the Director, furnish to the Director such further information and particulars as may in his opinion be necessary for the purposes of these regulations.

(3) The Director may in his discretion exempt any society from all or any of the requirements of paragraphs (f) and (g) of subclause (1) of this regulation if in his opinion sufficient information is otherwise available to him with respect thereto.

5. (1) No licence shall be granted under these regulations until the site, buildings, and amenities and facilities to be provided in the proposed home have been approved by the Director as suitable for the purposes of the reception and care of intellectually handicapped persons.

(2) No licence shall be granted under these regulations unless the Director is satisfied that the sleeping accommodation to be set apart in the proposed home is such as will provide not less than 600 cubic feet of space for each inmate.

(3) The provisions of this regulation shall not limit the generality of the provisions of subclause (4) of regulation 3 hereof.

6. (1) A licence may be granted under these regulations in respect of any building or any portion or portions of a building.

(2) A licence may be granted under these regulations in respect of two or more buildings or portions of two or more buildings, whether they are adjacent to one another or not, and in any such case those buildings or portions shall be deemed to be a single licensed home.

7. Every licence granted under these regulations shall continue in force until it is surrendered by the licensee, unless it is sooner revoked under these regulations.

8. (1) The Minister may at any time revoke any licence if—

(a) He is satisfied that the licensee has knowingly contravened or failed to comply with any of the provisions of regulations 9, 12, 14, 15, and 19 of these regulations, or of any requirement or condition imposed thereunder, unless the contravention or non-compliance was pursuant to an exemption for the time being in force under these regulations, or that the licensee has caused or permitted any such contravention or non-compliance by any other person:

(b) He is satisfied that the licensee has caused or permitted the licensed home to be used for any purpose other than the reception and care of intellectually handicapped persons pursuant to these regulations:

(c) The licensee is convicted of any offence against the Mental Health Act 1911 or against these regulations:

(d) In the opinion of the Minister the premises of the licensed home are insanitary or insufficiently equipped or the home is managed or conducted in such a manner that the revocation of the licence is required in the public interest.

(2) Before a licence is revoked under this regulation the Minister shall give notice in writing to the licensee of his intention to revoke the licence and of the ground of the proposed revocation, and shall afford to the licensee a reasonable opportunity of showing cause why the licence should not be revoked.

(3) Any revocation of a licence under this regulation shall be effected by notice published in the *Gazette*.

(4) The decision of the Minister as to the revocation of a licence shall be final.

Staff of Licensed Homes

9. (1) Subject to the provisions of this regulation, for every licensed home there shall be—

(a) A medical officer, who shall be a registered medical practitioner and may be appointed in a part-time capacity:

(b) A matron, who shall be a registered nurse with satisfactory experience in the care of intellectually handicapped persons:

(c) An assistant matron, who shall be a registered nurse:

(d) Such other employees (if any) as the Director may require as a condition of the grant of the licence.

(2) The licensee shall from time to time appoint such persons as may be necessary to comply with this regulation.

(3) It shall not be necessary for the medical officer to reside on the premises of the home.

(4) The matron and the assistant matron shall each reside on the premises of the home and shall each be employed in a full-time capacity.

(5) During the temporary absence or incapacity from any cause of the matron, the assistant matron shall act as and be deemed for the purposes of these regulations to be the matron:

Provided that any qualified person may be appointed as acting matron or acting assistant matron during the temporary absence or incapacity of the matron or assistant matron, and during the term of such appointment shall be deemed for the purposes of these regulations to be the matron or assistant matron, as the case may require.

(6) The Director may from time to time, in any case in which by reason of special circumstances he thinks fit do so, by writing under his hand, grant in respect of any licensed home an exemption from any of the requirements of this regulation, upon and subject to such terms and conditions as he thinks fit. Any exemption so granted may be at any time withdrawn or varied by the Director by notice in writing to the licensee of the home.

Admission of Intellectually Handicapped Persons to Licensed Homes

10. (1) Every application for the reception of any intellectually handicapped person in any licensed home pursuant to section 3 of the Mental Health Amendment Act 1954 may be made to the licensee, or to any person authorized by the licensee to receive such applications.

(2) The application shall be in writing signed by a parent or guardian of the intellectually handicapped person, or by a person for the time being having the lawful custody or control of the intellectually handicapped person.

(3) The application shall be accompanied by a certificate signed by a Medical Officer of Health under the Health Act 1920, or by a registered medical practitioner being an officer of the Department of Health, to the effect that the case is a proper one for reception in a licensed home.

(4) Notwithstanding anything in subclause (3) of this regulation, where a registered medical practitioner is satisfied that it is expedient either for the welfare of the intellectually handicapped person or in the public interest that the person should be received in a licensed home without delay, and no Medical Officer of Health or other medical practitioner within the meaning of that subclause is readily available for the purpose of giving a certificate thereunder, the certificate may be given by the first-mentioned medical practitioner.

11. (1) Subject to the provisions of these regulations, the reception of any intellectually handicapped person in any licensed home shall be upon and subject to such terms and conditions as to the cost of his maintenance and otherwise as may be agreed upon between the licensee, or any person authorized by the licensee to enter into such agreements on its behalf, and the applicant.

(2) Nothing in these regulations shall be construed to make it obligatory for any licensee or other person to receive any intellectually handicapped person in any licensed home or to agree to any extension of the period for which any intellectually handicapped person is so received.

12. (1) The period for which any intellectually handicapped person may be received in any licensed home under any such agreement as aforesaid shall not exceed two months.

(2) The Director may from time to time in his discretion, with the concurrence of the licensee and having regard to any special circumstances, approve an extension of the aforesaid period of two months:

Provided that no such extension shall exceed two months at any one time.

(3) No intellectually handicapped person shall be received in any licensed home within six months after the expiry of the period or extended period of his last stay in any licensed home:

Provided that the Director may in his discretion, having regard to any special circumstances, approve, in writing, the reception of any such person as aforesaid within the said period of six months.

(4) In giving any approval under subclause (2) or subclause (3) of this regulation the Director may in his discretion impose such conditions as he thinks fit.

(5) Notice in writing of every such approval as aforesaid, and of any condition imposed in respect thereof, shall be given by the Director to the licensee of the home to which it relates.

13. (1) On the request in writing of the matron of any licensed home, the person who applied for the reception in the home of the intellectually handicapped person to whom the request relates shall forthwith remove him from the home; and on such removal the control of the licensee over him shall cease.

(2) On the request in writing of the person who applied for the reception in any licensed home of any intellectually handicapped person, the matron of the home shall forthwith hand him over to the person making the request; and on such handing over the control of the licensee over the intellectually handicapped person shall cease.

(3) If with the concurrence of the licensee or of any person authorized by the licensee in that behalf any intellectually handicapped person is only temporarily removed under this regulation, and is returned to the home before the expiry of the period of stay originally agreed upon or of any approved extension of that period, the control of the licensee over him shall be deemed to be resumed on his return.

Records and Notices

14. (1) In every licensed home there shall be kept a register of inmates, in which the matron shall enter or cause to be entered—

- (a) The name, age, and usual place of abode of every intellectually handicapped person received in the home, and the date of his reception:
- (b) The date of every agreement under which any intellectually handicapped person is received in the home, and the period for which it is intended that he shall stay in the home:
- (c) The name and usual place of abode of the applicant for the reception in the home of the intellectually handicapped person:
- (d) The date at which every intellectually handicapped person leaves the home, whether temporarily or permanently, and, where he leaves the home temporarily, the date of his return:
- (e) Where any intellectually handicapped person dies in the home, or while otherwise under the control of the licensee, the date of death.

(2) In addition to the particulars referred to in subclause (1) of this regulation, the matron shall enter or cause to be entered in the register such further particulars (if any) as the Director may from time to time require by notice in writing to the licensee of the home.

(3) The particulars required to be entered in the register shall be entered therein as soon as practicable after the occurrence of the act or event to which the entry relates.

15. The Director may from time to time by notice in writing require any licensee to furnish to him such returns or other information as may be specified in the notice with respect to the licensed home, its management, the intellectually handicapped persons therein, and any matter in connection therewith, and to furnish to him copies of such certificates or other documents relating to the intellectually handicapped persons in the home as may be specified in the notice; and it shall be the duty of the licensee to furnish such returns or other information or copies as aforesaid within such time as may be specified in the notice.

16. The matron of a licensed home shall be deemed to be the occupier of the premises for the purpose of giving notice under section 80 of the Health Act 1920 of any intellectually handicapped person suspected to be suffering from any notifiable infectious disease.

17. (1) If any intellectually handicapped person dies while in any licensed home or while otherwise under the control of the licensee, the matron of the home, in addition to giving any notice in respect of the death required by any Act or any regulations other than these regulations, shall within twenty-four hours after the death notify the Director, in writing, of the death and apparent cause of death, and of the names of all persons present at the death.

(2) In any such case the matron shall also forthwith report the death to the constable in charge of the nearest police station, and to the parent or guardian or other person named in the register of inmates as the applicant for the reception of the intellectually handicapped person in the home.

Inspection

18. (1) The Director, or any officer of the Division of Mental Hygiene of the Department of Health authorized by him in writing, may at any time, without previous notice, visit and inspect any licensed home.

(2) The person so visiting the home may inspect any part thereof and any part of the grounds or appurtenances used or occupied therewith; and may see any intellectually handicapped person therein, the register of inmates, and all records.

(3) Every officer or person employed in or in respect of the home shall give to the person so visiting the home all information required by the last-mentioned person with respect to the home, its management, the intellectually handicapped persons therein, and all matters in connection therewith.

Miscellaneous

19. No structural alteration or addition shall be made to any licensed home until a sufficient plan and description of the proposed alteration or addition have been given by the licensee to the Director and have been approved by him in writing.

20. Any notice required by these regulations to be given to any licensee may be given by leaving it at the licensed home or by posting it by registered letter addressed to the licensee at the licensed home or at the last known address of the licensee. A notice so posted shall be deemed to have been served at the time when the registered letter would in the ordinary course of post be delivered.

Offences

21. (1) Every licensee commits an offence and is liable on summary conviction before a Magistrate to a fine not exceeding £50, and if the offence is a continuing one to a further fine not exceeding £5 for every day or part of a day during which the offence has continued, if the licensee—

- (a) Knowingly contravenes or fails to comply in any respect with any provision of these regulations or of any requirement or condition imposed thereunder, unless the contravention or non-compliance was pursuant to an exemption for the time being in force under these regulations:
- (b) Causes or permits any such contravention or non-compliance as aforesaid by any other person:
- (c) Causes or permits any licensed home to be used for any purpose other than the reception and care of intellectually handicapped persons pursuant to these regulations:
- (d) Causes or permits to be received in any licensed home a greater number of intellectually handicapped persons than is authorized by the terms of the licence.

(2) Without prejudice to any liability of any licensee under sub-clause (1) of this regulation, every officer of any society being a licensee, and every person employed in or in connection with any licensed home, commits an offence and is liable on summary conviction before a Magistrate to a fine not exceeding £20, and if the offence is a continuing one to a further fine not exceeding £2 for every day or part of a day during which the offence has continued, who—

- (a) Knowingly contravenes or fails to comply in any respect with any provision of these regulations or of any requirement or condition imposed thereunder, unless the contravention or non-compliance was pursuant to an exemption for the time being in force under these regulations:
- (b) Causes or permits any such contravention or non-compliance as aforesaid by any other person:
- (c) Causes or permits any licensed home to be used for any purpose other than the reception and care of intellectually handicapped persons pursuant to these regulations:
- (d) Causes or permits to be received in any licensed home a greater number of intellectually handicapped persons than is authorized by the terms of the licence:
- (e) Obstructs any person visiting or inspecting any licensed home pursuant to these regulations, or conceals or attempts to conceal from or refuses or wilfully neglects to show to any such person any part of the home or grounds or appurtenances thereof or any intellectually handicapped person therein or any register or record:
- (f) Knowingly makes or causes or permits to be made any untrue entry in the register of inmates kept in any licensed home:
- (g) Knowingly gives any false or misleading information to the Director for the purposes of these regulations, or to any person visiting or inspecting any licensed home pursuant to these regulations:
- (h) Knowingly makes any false or misleading statement in any notice, application, return, or other document for the purposes of these regulations.

T. J. SHERRARD,
Clerk of the Executive Council.

EXPLANATORY NOTE

[This note is not part of the regulations, but is intended to indicate their general effect.]

These regulations give effect to section 3 of the Mental Health Amendment Act 1954, and deal with the reception and care of intellectually handicapped persons in licensed short-stay homes. They provide for the licensing of the homes, the appointment, qualifications, and duties of staffs, the procedure for the admission and removal of intellectually handicapped persons, the keeping of records, the inspection of licensed homes, and miscellaneous matters.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 14 July 1955.

These regulations are administered in the Department of Health.