

1965/162



## THE OLD PEOPLE'S HOMES REGULATIONS 1965

BERNARD FERGUSSON, Governor-General

### ORDER IN COUNCIL

At the Government House at Wellington this 15th day of September 1965

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Health Act 1956, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

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#### REGULATIONS

##### PART I—PRELIMINARY

**1. Title and commencement**—(1) These regulations may be cited as the Old People's Homes Regulations 1965.

(2) These regulations shall come into force on the twenty-eighth day after the date of their notification in the *Gazette*.

**2. Interpretation**—(1) In these regulations, unless the context otherwise requires,—

“Director-General” means the Director-General of Health appointed under the Health Act 1956:

“Home” means any premises where six or more persons who have attained the age of 65 years and are not related by blood or marriage to the householder (whether or not they are in any way infirm) are or are to be in residence and paying for their lodging and for one or more meals a day, being any premises which are or purport to be mainly for aged or infirm persons, and not being a licensed private hospital, an institution under the control of the Department of Health or of a Hospital Board, a separate institution within the meaning of the Hospitals Act 1957, or an institution within the meaning of the Mental Health Act 1911:

“Licence” means a licence issued under these regulations:

“Licensee” means the proprietor of a licensed home:

“Manager” includes matron:

“Old people” means those persons residing in any home who have attained the age of 65 years and are not related by blood or marriage to the householder (whether or not they are in any way infirm) and who are paying for their lodging and one or more meals a day:

“Residents” means all persons, exclusive of staff, residing in a home.

Terms and expressions defined in the Health Act 1956 shall, when used in these regulations, have the meanings so defined.

(2) In these regulations “standards of fitness” means the standards of fitness prescribed in Part I of the Housing Improvement Regulations 1947,\* and “overcrowded” means overcrowded in terms of Part II of the said regulations, subject as follows—

- (a) Regulation 5 (2) of the said regulations shall have no application:
- (b) Regulation 19 (2) of the said regulations shall apply as if every home were a boardinghouse and as if the word “six” were substituted for the word “ten” in paragraph (b) thereof in relation to lavatory basins.

**3. Homes to be licensed—**(1) No premises shall be used as a home except under the authority and in accordance with the terms of a licence issued by the Director-General in the form numbered 1 in the Schedule to these regulations.

(2) If any premises are used as a home in breach of this regulation, the occupier thereof and every person concerned in the management of the home shall be deemed to have committed an offence against these regulations and shall be severally liable accordingly.

(3) Notwithstanding anything in subclauses (1) and (2) of this regulation, any premises which are being used as a home immediately before the enactment of these regulations, may continue to be so used, without being licensed under these regulations, for a period of 12 months after the commencement of these regulations.

(4) Where any premises are being used as a home immediately before the enactment of these regulations and at any time within 12 months after the commencement of these regulations application is duly made for a licence in respect of those premises, the applicant shall be deemed for

\*S.R. 1947/200

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the purposes of these regulations, pending the decision of the Director-General and, in the case of an appeal against that decision, until the determination of the appeal, to be the holder of a licence in terms of his application in respect of those premises notwithstanding that the said period of 12 months expires before such decision or determination is made.

#### PART II—LICENCES

**4. Application for licence**—(1) Every application for a licence to keep a home shall be made in writing to the Director-General in the form numbered 2 in the Schedule to these regulations. If an applicant wishes to keep more than one home, he shall make a separate application in respect of each home.

(2) Every such application shall be accompanied by a scale plan of the home. Each of the rooms shown on the plan shall be numbered and the numbers used shall be the same as those which will be used for identification of the rooms when in use.

(3) Except as the Director-General may permit in any particular case every such application shall be accompanied by a certificate from the local authority describing the fire-fighting appliances available at the home and stating whether those appliances and the premises of the home comply with the fire-protection requirements of the local authority.

(4) Every such application shall be lodged with the Medical Officer of Health who shall transmit it to the Director-General.

**5. Refusal of licence**—The Director-General may refuse to issue a licence if he is not satisfied that—

- (a) The home complies with the standards of fitness:
- (b) The home is not overcrowded:
- (c) The home is or will within a reasonable time be staffed in accordance with regulation 18 of these regulations:
- (d) The home contains a separate bathroom and toilet for the licensee and staff:
- (e) The premises are otherwise suitable for the purposes indicated in the application:
- (f) The applicant is of good character or the organisation on behalf of which the application is made is of good repute, and he or it is fit to be the licensee of a home:
- (g) The person nominated in the application as the manager of the home is of good character and fit to be the manager of the home.

**6. Particulars to be specified on licence**—(1) Every licence shall specify—

- (a) The maximum number of residents that may be accommodated in the licensed home at any one time:
- (b) The name of the licensee:
- (c) The date when the licence was issued:
- (d) By reference to the application, or otherwise, the purposes for which the rooms in the licensed home may be used, and the maximum number of residents that may be accommodated in any bedroom at any one time.

(2) The Director-General may from time to time, if he thinks fit, on an application in writing signed by the licensee, vary the terms of the licence, by endorsement thereon or otherwise in writing, by altering, in such manner as he thinks fit,—

- (a) The maximum number of residents that may be maintained in the licensed home at any one time:
- (b) The purposes for which the rooms or any room or rooms in the licensed home may be used, or the maximum number of residents that may be accommodated in any bedroom at any one time.

**7. Effect of death of one of joint licensees**—Where a licence has been granted to two or more persons jointly, and during the currency thereof any of those persons die leaving the other or others surviving, the licence shall remain in force and have the same effect as if granted to the survivor or survivors.

**8. Transfer of licence on application of licensee**—On an application in writing signed by the licensee of any home and by any person to whom he desires that his licence shall be transferred, the Director-General may, if he thinks fit, by endorsement on the licence or otherwise in writing, transfer the licence to that person; and thereupon that person shall become the licensee of the home, with the same rights and obligations as if the licence had been granted to him.

**9. Transfer or revocation of licence on death of licensee**—(1) If the licensee or the sole surviving licensee of a home dies, the Director-General may, if he thinks fit, by endorsement on the licence or otherwise in writing, transfer the licence to any person nominated in that behalf by the executors or administrators of the deceased licensee, and that person shall thereupon become the licensee of the home, with the same rights and obligations as if the licence had been granted to him.

(2) In the meantime, unless the licence is revoked under this regulation or under regulation 13 of these regulations, the home shall continue to be a licensed home under these regulations.

(3) If the licence is not transferred under the authority of this regulation within three months after the death of the licensee or of the sole surviving licensee, the Director-General may, by notice under his hand published in the *Gazette*, revoke the licence without notice, and thereupon the home shall cease to be a licensed home.

**10. Termination of licence**—(1) Except as is provided in regulations 7, 8, and 9 of these regulations a licence shall cease to have effect when the licensee ceases to be the proprietor of the home licensed thereby, but otherwise every licence shall continue in force until it is revoked or surrendered in accordance with these regulations.

(2) For the purposes of regulations 6, 7, 8, and 9 of these regulations, if the licensee is an organisation, any document signed by a proper officer of the organisation on behalf of the organisation shall be deemed to be signed by the licensee, and words referring to the death of the licensee shall be construed as referring to the dissolution of the

organisation, and the expression "executors or administrators" shall be construed to mean the liquidators or other persons responsible for winding up the organisation.

**11. Structural alterations to licensed home**—(1) No structural alteration or addition shall be made to any licensed home until a sufficient plan and description of the proposed alteration or addition has been given to the Director-General and approved by him.

(2) If any alteration or addition is made in breach of this regulation, the licensee shall be deemed to have committed an offence against these regulations.

**12. Power to require alterations**—(1) If at any time, in the opinion of the Director-General, the premises or equipment of any licensed home have become inadequate or unsuitable for any of the purposes of the licence, he may, by notice in writing given to the licensee or the manager of the home, require the licensee, within such time as may be specified in the notice, to make such alteration in the premises or any part thereof, or to install such equipment, as may in his opinion be necessary.

(2) If within the time so specified, or within such further time as the Director-General may allow, the licensee fails to comply with the notice, the Director-General may, if he thinks fit, either—

- (a) Vary the terms of the licence, in accordance with subclause (2) of regulation 6 of these regulations, as if an application for variation had been made under that subclause; or
- (b) Revoke the licence under paragraph (h) of subclause (1) of regulation 13 of these regulations, and the provisions of that regulation shall apply accordingly.

(3) Before a licence is varied under subclause (2) of this regulation, the Director-General shall give notice to the licensee of the ground on which it is proposed to vary the licence, and shall give the licensee a reasonable opportunity of showing cause why the licence should not be varied. Any such notice may be given to the licensee either personally or by leaving it at the licensed home.

(4) Subject to the provisions of regulation 22 of these regulations, the decision of the Director-General as to any variation of a licence under this regulation shall be final and conclusive.

**13. Revocation of licence**—(1) A licence may at any time be revoked by the Director-General on any of the following grounds:

- (a) That the licensee of the home has been convicted of an offence against subsection (2A) of section 120A of the Health Act 1956 or these regulations or of any offence punishable by imprisonment:
- (b) That the premises are no longer being used as a home:
- (c) That the home no longer complies with the standards of fitness:
- (d) That the home is overcrowded:
- (e) That the home is not staffed in accordance with regulation 17 of these regulations:
- (f) That the home no longer contains a separate bathroom and toilet for the licensee and staff:

(g) That in the opinion of the Director-General the premises of the home are unsafe for residents or are insanitary, or that the premises are in such a condition or the home is managed or conducted in such a manner that the revocation of the licence is required in the public interest:

(h) That the requirements of any notice under regulation 12 of these regulations have not been complied with.

(2) Before a licence is revoked on any of the grounds mentioned in this regulation the Director-General shall give notice to the licensee of the ground on which it is proposed so to revoke the licence, and shall give the licensee a reasonable opportunity of showing cause why the licence should not be revoked.

(3) Any such notice may be given to the licensee either personally or by leaving it at the licensed home; and any such revocation of a licence shall be effected by a notice under the hand of the Director-General and published in the *Gazette*.

(4) Subject to the provisions of regulation 22 of these regulations, the decision of the Director-General as to the revocation of a licence shall be final and conclusive.

**14. Surrender of licence**—(1) Subject to the provisions of this regulation, any licensee may at any time surrender his licence by notice in writing to that effect sent to the Director-General.

(2) The surrender shall take effect, and the home shall cease to be a licensed home, on the expiry of one month after the date of the receipt of the notice by the Director-General, or on such earlier date as may be approved by the Director-General.

(3) On or before the taking effect of the surrender, the licensee shall send the licence to the Director-General for cancellation.

**15. Temporary licences**—(1) The Director-General may at any time, if in special circumstances he thinks it expedient to do so, grant a temporary licence for the keeping of a home for such period, not exceeding one year, as he thinks fit.

(2) The period for which a temporary licence is granted shall be specified in the licence.

(3) The Director-General may from time to time, by endorsement on the licence or otherwise in writing, extend the period of any temporary licence for such further period or periods as he thinks fit.

(4) All the provisions of these regulations, except those relating to standards of fitness and overcrowding, shall apply with respect to a temporary licence under this regulation and with respect to the home to which the licence relates.

**16. Resident Manager**—(1) For every licensed home there shall at all times be a manager resident on the premises of the home who may be either the licensee himself or some other person appointed and employed by the licensee.

(2) No person other than a licensee shall be appointed as the manager of a licensed home until the name of that person has been notified to the Director-General and he has approved of the appointment.

(3) The Director-General may refuse to approve any person to be a manager of a home if he is not satisfied as to his or her character and fitness to be the manager of the home in respect of which the appointment is proposed to be made.

(4) During the temporary absence, illness, or incapacity of the manager of a home the licensee may, without notice to the Director-General, appoint as acting manager thereof any other person, and every person so appointed shall, while he so acts, be deemed for the purposes of these regulations to be the manager of the home:

Provided that no such acting manager shall so act, whether under the same or successive appointments, for a longer continuous period than four weeks, except with the prior approval of the Director-General.

(5) If at any time a home is used as such while there is no manager or acting manager thereof in accordance with this regulation, or while the manager or acting manager does not reside on the premises of the home, the licensee thereof shall be deemed to have committed an offence against these regulations.

#### PART III—DUTIES OF LICENSEES

**17. Staff**—Except as may be permitted by the Director-General in any particular case the minimum standard of domestic staffing to be provided in a home shall be, inclusive of the manager, in accordance with that specified in the table hereunder:

TABLE

*Minimum Number of Staff (Including the Manager) Required for an Old People's Home*

No. of Residents:	No. of Staff Required:
6-10	2
11-15	3
16-20	4
Exceeding 20	4 plus 1 additional staff member for every additional 1 to 5 residents.

**18. Obligations of licensee**—(1) Every licensee other than the holder of a temporary licence, shall take all reasonable steps to ensure that the home in respect of which he holds a licence complies at all times with the standards of fitness and is not overcrowded.

(2) Every licensee shall take all reasonable steps to ensure that the home in respect of which he holds a licence is staffed in accordance with regulation 17 of these regulations.

**19. Register**—(1) In every licensed home there shall be kept a register of old people in a form approved by the Medical Officer of Health, in which the licensee shall enter or cause to be entered:

- (a) The name, age, sex, and previous place of residence of every old person and the date when he took up residence in the home:

- (b) The name, address, and telephone number (if any) of each old person's next-of-kin or the name, address, and telephone number (if any) of the person to be notified in an emergency:
- (c) The date at which each old person leaves the home and his future address, if it is available.

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

(3) Every person commits an offence against these regulations who knowingly makes any untrue entry in the register of old people.

(4) Every licensee shall keep every such register for a period of not less than three years from the date of the last entry in that register.

(5) Every such register shall be open to inspection at all times by any officer of the Department of Health, who may make such copies thereof as he thinks fit.

**20. Display of licence**—Every licensee shall cause his licence to be permanently exhibited in some conspicuous place where it can readily be seen by all persons having access to the premises to which the licence relates.

#### PART IV—GENERAL PROVISIONS

**21. Inspection**—For the purposes of these regulations the Director-General or a Medical Officer of Health or any other person authorised in writing in that behalf by the Director-General or a Medical Officer of Health may at all reasonable times enter and inspect any home.

**22. Appeals**—(1) Any person to whom any decision or requirement of the Director-General under these regulations applies, and who objects to the decision or requirement, may within fourteen days after receiving notice of the decision or requirement apply to a Magistrate's Court to have his objection heard and determined.

(2) For the purposes of hearing and determining the application, the Court shall have all the powers vested in it in its civil jurisdiction. On hearing the application the Court may make such order as it thinks fit, and every such order shall be final and binding on all parties.

**23. Offences**—(1) Every person commits an offence against these regulations who, for the purpose of obtaining, whether for himself or any other person, the grant of any licence under these regulations, or for any other purposes in relation to these regulations,—

- (a) Makes any declaration or statement which to his knowledge is false in any particular; or
- (b) Utters, produces, or makes use of any such declaration or statement as aforesaid or any document containing the same; or
- (c) Knowingly utters, produces, or makes use of any document that is not genuine.

(2) Every person commits an offence against these regulations who contravenes or fails to comply in any respect with any provision of regulations 18 to 20 of these regulations or wilfully obstructs, hinders, or resists, any person in the execution of any powers conferred on him by or pursuant to these regulations.



**24. Saving**—Nothing in these regulations relating to temporary licences shall affect or derogate from the Housing Improvement Regulations 1947.

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SCHEDULE

Form No. 1

Reg. 3 (1)

LICENCE FOR AN OLD PEOPLE'S HOME

.....  
*(Address or Description of Premises)*

is hereby licensed as a Home under the Old People's Homes Regulations 1965.

1. The maximum number of residents that may be accommodated in this Home at any one time is .....

2. Name of Licensee: .....

3. The rooms in this Home may be used only for (the purposes set out below) *or* (the purposes specified in the application dated ....., subject to the modifications (if any) set out below).

4. The maximum number of residents that may be accommodated in each bedroom at any one time is (as set out below) *or* (the number shown in respect of each bedroom in the application dated ....., subject to the modifications (if any) set out below).

5. The period for which this licence is granted is .....

*(Delete if the licence is not a temporary licence)*

Dated this ..... day of ..... 19.....

Number of Licence: .....

.....  
for Director-General.

*Endorsements*

Form No. 2

Reg. 4 (1)

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APPLICATION FOR A LICENCE TO KEEP A HOME FOR OLD PEOPLE

To the Director-General,  
 Care of the Medical Officer of Health  
 at .....

I/We [*Name in full*] of [*Address*], [*Occupation*], hereby make application under the Old People's Homes Regulations 1965 for a licence to keep a home for old people in the under-described premises situated at .....

*Particulars of Home and Applicant*

1. If the home is to be kept on behalf of an organisation, state—

(a) The full name of the organisation: .....

(b) The address of the principal office of the organisation: .....

(c) The telephone number of the organisation: .....

(d) The position held by the applicant in or under the organisation: .....

2. The name or proposed name of the home is .....

SCHEDULE—continued

- 3. The name of the manager (or matron) is .....
- 4. The owner of the premises is .....
- 5. If the owner of the premises is not the applicant, or an organisation on whose behalf the home is to be kept, state briefly the interest of the applicant or organisation in the premises. If the interest of the applicant or organisation arises under a lease give brief particulars, including the name of the lessor and the length of the term: .....

*Premises and Site*

- 6. (a) Construction (brick, wood, etc.): .....
- (b) Number of storeys: .....
- (c) Date of erection: .....
- (d) Area of site: .....
- (e) Description of site (flat, sloping, etc.): .....
- (f) Drainage: .....
- (g) Water supply: .....

7. Fire Protection Facilities—

- (a) Fire Escapes—  
 Description: .....
- Position: .....

- (b) Fire Protection Appliances—  
 Description: .....
- Position: .....

(A certificate from the local authority should be attached. This certificate should describe the fire fighting appliances available at the home and state whether they and the building comply with the local authority's fire protection requirements.)

*Plan of Building*

8. A scale plan of the main buildings and other buildings operated as part of the home, scale ..... inch to a foot, is attached.

*Description of Accommodation*

9. Particulars of the rooms shown on the attached plan are as follows—

Room No.*	Length	Breadth	Height	Number of Persons to Occupy Bedrooms	Use to Which Room Will be Put. State if for Old People, Staff, or for What Special Use	For Departmental Use

Continue on a Separate Sheet if necessary

\*The room numbers must be the same as those which will be used for the identification of the rooms when in use.

SCHEDULE—*continued*

## 10. Particulars of the Sanitary and Service Rooms—

Bathrooms	.....	For residents only—	Nos. on plan: .....
			Fittings: .....
		For staff only—	Nos. on plan: .....
			Fittings: .....
Closets	.....	For residents only—	Nos. on plan: .....
			Fittings: .....
		For staff only—	Nos. on plan: .....
			Fittings: .....
Kitchen	.....	Nos. on plan: .....	
Block	.....	Type of stove: .....	
		Hot water service: .....	
		Dish-washing facilities: .....	
		Food storage (brief description): .....	
Laundry	.....	No. on plan: .....	
		Fittings and Appliances:	

11. Accommodation is provided for ..... residents and ..... staff.

*Staff*

12. (a) The staff of the home will consist of not less than the following:

			Number
Manager (or Matron)	.....	.....	.....
Assistant Manager or Matron	.....	.....	.....
Cook or cooks	.....	.....	.....
Other household staff	.....	.....	.....
<b>Total</b>	.....	.....	.....

(b) The following members of the above staff will live in.

			Number
Supervisory staff	.....	.....	.....
Household staff	.....	.....	.....
<b>Total</b>	.....	.....	.....

*References*

\*13. The names and addresses of two reputable persons to whom reference as to my character and fitness may be made are .....

Dated at ..... this ..... day of ..... 19.....

.....  
[Applicant.]

\*Not necessary when the application is made on behalf of an organisation but the Director-General may require evidence that the organisation is of good repute.

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.*

The regulations provide for the licensing of old people's homes and make it an offence to use any premises as an old people's home without a licence. Homes which are in use as such when these regulations are enacted will be able to be carried on without a licence until twelve months after the commencement of these regulations.

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Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 16 September 1965.

These regulations are administered in the Department of Health.