



Isle of Man

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**REGULATION OF CARE (CARE SERVICES)
REGULATIONS 2013**



REGULATION OF CARE (CARE SERVICES) REGULATIONS 2013

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Statutory Document No. 2013/0338

*Regulation of Care Act 2013*

REGULATION OF CARE (CARE SERVICES) REGULATIONS 2013¹

Laid before Tynwald: 15 October 2013
Coming into Operation: 17 October 2013

The Department of Social Care makes the following Regulations under sections 65(b), 71(1) and 161 and 164 of the Regulation of Care Act 2013¹.

PART 1 – GENERAL

1 Title

These Regulations are the Regulation of Care (Care Services) Regulations 2013.

2 Commencement

These Regulations come into operation on 17 October 2013.

3 Interpretation

(1) In these Regulations –

“**the Act**” means the Regulation of Care Act 2013;

“**annual fee**” means any of the fees specified in Schedule 1;

“**DSC**” means the Department of Social Care;

“**representative**” means in respect of a care service recipient any of the following –

- (a) parent;
- (b) person with parental responsibility;
- (c) spouse;
- (d) civil partner;
- (e) relative;

¹ Section 164 is cited for the meaning it assigns to “prescribed”.

- (f) carer; or
- (g) person acting as a representative.

“**service recipient’s guide**” has the meaning given in regulation 7;

“**staff**” means persons employed by the registered person to work at the care service but does not include a volunteer or a person employed under a contract for services;

“**statement of purpose**” has the meaning given in regulation 5.

- (2) In these Regulations, a reference to a numbered section is to the section of the Act bearing that number.

4 Revocation

The following are revoked –

- (a) the Nursing and Residential Homes Regulations 1989;
- (b) the Nursing and Residential Homes (Fees) Regulations 1993; and
- (c) the Children’s Homes Regulations 2002.

PART 2 – STATEMENT OF PURPOSE, PROTECTION OF SERVICE RECIPIENTS AND SERVICE USER’S GUIDE

5 Statement of purpose

The registered person must maintain in relation to a care service a written statement (called “**the statement of purpose**”) including the information detailed in Schedule 3 of the Regulation of Care (Registration) Regulations 2013.

6 Arrangements for the protection of service recipients

The care service must establish and maintain a written policy in relation to the arrangements in place for the safeguarding of service recipients at the care service.

7 Service recipient’s guide

The registered person must produce a written guide to the care service (called “the service recipient’s guide”) including –

- (a) a summary of the statement of purpose;
- (b) the terms and conditions in respect of the accommodation to be provided for service recipients, including the amount and method of payment of fees.

8 Review of statement of purpose, arrangements for the protection of service recipients and service recipient's guide

The registered person must —

- (a) keep under review and, if appropriate, revise the statement of purpose, arrangements for the protection of service recipients, and the service recipient's guide; and
- (b) notify service recipients of any such revisions as appropriate.

PART 3 – REGISTERED PERSONS

9 Requirement to meet minimum standards

The registered person must ensure that the care service meets all minimum standards applicable to the care service.

10 Requirement to notify DSC of death, illness and other events

- (1) The registered person in relation to a care service must notify DSC no later than 24 hours from the occurrence of —
 - (a) the death of any service recipient at the care service and the circumstances of the death;
 - (b) the outbreak of any notifiable disease (within the meaning of Part II of the *Public Health Act 1990*) at the care service;
 - (c) the serious injury or illness of any service recipient at the care service;
 - (d) the suffering of serious harm of any service recipient at the care service;
 - (e) any event at the care service affecting the well being of any service recipient;
 - (f) any unexplained absence of a service recipient from a care service;
 - (g) any serious incident necessitating calling the police to the care service;
 - (h) the making of any allegation that a service recipient has committed an offence;
 - (i) any theft, burglary, fire or accident at the care service; and
 - (j) any conduct of a member of staff at a care service that may be such that they may not be a suitable person to be involved in the care of service recipients.
- (2) If a service recipient is a child, the registered person in relation to a care service must, no later than 24 hours from the time of the occurrence of any of the events specified in paragraph (1)(a) to (j), also notify —

- (a) the child's parent or person with parental responsibility for the child; and
- (b) any person or organisation that has accepted responsibility wholly or partly for the cost of that child's care at the care service.

11 Notification of absence of responsible person or registered manager

- (1) The responsible person or registered manager of a care service must notify DSC using the required form of any period of more than 4 weeks during which he or she does not intend to continue to supervise the management or manage the care service.
- (2) Notice under paragraph (1) must be given no later than 4 weeks before the proposed absence.
- (3) But paragraph (2) does not apply if —
 - (a) DSC agrees to a shorter period; or
 - (b) the absence is a result of an emergency.This is subject to paragraphs (4) and (5).
- (4) If paragraph (3)(a) applies, notice must be given no later than the beginning of the period referred to in that paragraph.
- (5) If paragraph (3)(b) applies, notice must be given —
 - (a) no later than one week after the start of the absence; or
 - (b) if that is impracticable, as soon as possible thereafter.
- (6) Notice under paragraph (1) must include —
 - (a) the length or expected length of the proposed absence;
 - (b) the reason for the proposed absence;
 - (c) the arrangements that have been made for the supervision of the management or the management of the care service during the responsible person or registered manager's proposed absence; and
 - (d) the name, contact details, experience and qualifications of the person who will be responsible for the supervision of the management or the management of the care service during the registered manager's proposed absence.

12 Notification of change of purpose

- (1) The registered provider must notify DSC using the required form of any change to —
 - (a) The age range of service recipients that the care service intends to meet.
 - (b) The range of needs of service recipients that the care service intends to meet.

- (2) Notice under paragraph (1) must be given no later than 4 weeks before the proposed change takes effect
- (3) But paragraph (2) does not apply if —
 - (a) DSC agrees to a shorter period; or
 - (b) the change is a result of an emergency.This is subject to paragraphs (4) and (5).
- (4) If paragraph (3)(a) applies, notice must be given no later than the beginning of the period referred to in that paragraph.
- (5) If paragraph (3)(b) applies, notice must be given —
 - (a) no later than 48 hours after the change takes effect; or
 - (b) if that is impracticable, as soon as possible thereafter.
- (6) Notice under paragraph (1) must include —
 - (a) details of the proposed change;
 - (b) how the care service intends to meet any proposed change to the range of needs of service recipients.

13 Service recipient's plan

- (1) Unless it is impracticable to carry out such consultation, the registered person must, following an assessment of need and after consultation with the service recipient, or their representative, prepare a written plan (called “the service recipient's plan”) as to how the service recipient's needs in respect of their health and welfare are to be met.
- (2) The registered person must, —
 - (a) make the service recipient's plan available to the service recipient, or their representative;
 - (b) keep the service recipient's plan under review;
 - (c) if appropriate and, unless it is impracticable to carry out such consultation, after consultation with the service recipient or their representative, revise the service recipient's plan; and
 - (d) notify the service recipient, or their representative, of any such revision.

14 Records

- (1) The registered person in relation to a care service must establish and maintain a records management policy and compile the records —
 - (a) applicable to the care service; and
 - (b) any other records required under other legislation in relation to the service recipient being cared for.

- (2) All records held by a registered person must be kept securely at the care service and available for inspection by any person authorised under section 111 of the Act.

15 Conduct of care services

- (1) The registered person must ensure that the care service is conducted so as to make proper provision for —
- (a) the welfare;
 - (b) the care;
 - (c) if appropriate, education;
 - (d) if appropriate, treatment; and
 - (b) the supervision of,
- service recipients at the care service.
- (2) In reaching any decision relating to a service recipient, the registered person —
- (a) must consider the need to safeguard and promote the welfare of the service recipient; and
 - (b) so far as practicable, ascertain the wishes and feelings of the service recipient and give due consideration to them as is reasonable having regard to the service recipient's age and understanding.
- (3) A care service must be maintained on the basis of good personal and professional relationships between —
- (a) the registered persons and persons employed at the care service; and
 - (b) the service recipients of the care service.
- (4) A care service must be maintained on the basis of good professional relationships between the registered persons and DSC.

16 Staffing

- (1) The registered person must, having regard to the size of the care service, the statement of purpose and the number and needs of service recipients, —
- (a) ensure that at all times suitably qualified, competent and experienced persons are working at the care service in such numbers as are appropriate for the health and welfare of service recipients;
 - (b) ensure that those persons are —
 - (i) fit to work at the care service;
 - (ii) of integrity and good character; and

- (iii) are mentally and physically fit for the purpose of the work which they are to undertake at the care service;
- (c) ensure that the employment of any persons on a temporary basis at the care service will not prevent service recipients from receiving such continuity of care as is reasonable to meet their needs;
- (d) ensure that the persons employed by the registered person to work at the care service receive, —
 - (i) training appropriate to the work they are to perform; and
 - (ii) suitable assistance, including time off, for the purpose of obtaining further qualifications appropriate to such work.
- (2) The registered person must ensure that persons working at the care service are appropriately supervised.
- (3) Where the care service provides nursing to service recipients the registered person must ensure that at all times a suitably qualified registered nurse is working at the care service.

17 Restrictions on acting for a service recipient in relation to financial matters

- (1) The registered person must not pay money belonging to any service recipient into a bank account unless —
 - (a) the account is in the name of the service recipient, their representative or any of the service recipients, to which the money belongs; and
 - (b) the account is not used by the registered person in connection with the carrying on or management of the care service.
- (2) But paragraph (1) does not apply to money which is paid to the registered person in respect of charges payable by a service recipient for accommodation or other services provided by the registered person at the care service.

18 Restrictions on acting for a service recipient

- (1) The registered person must not act, as far as practicable, as the agent of a service recipient.
- (2) The registered person must not act as a witness to the signature of a service recipient on any document giving rise to a legal relationship between the service recipient and another person or on a will.
- (3) The registered person must ensure, so far as practicable, that no person working at the care service acts as the agent of a service recipient.
- (4) The registered person must ensure that no person working at the care service acts as a witness to the signature of a service recipient on any

document giving rise to a legal relationship between the service recipient and another person or on a will.

19 Complaints

- (1) The registered person must maintain a procedure (“the complaints procedure”) for considering complaints made to the registered person by a service recipient or person acting on the service recipient’s behalf.
- (2) The complaints procedure must be appropriate to the needs, age, and understanding, of service recipients.
- (3) The registered person must ensure that any complaint made under the complaints procedure is fully investigated, and a record kept of any such investigation.
- (4) The registered person must supply a written copy of the complaints procedure to —
 - (a) every service recipient; and
 - (b) any person acting on behalf of a service recipient, if that person so requests.

20 Fitness of premises for service recipients

The registered person must not use premises for the purposes of a care service unless —

- (a) the premises are suitable for the purpose of achieving the aims and objectives set out in the statement of purpose;
- (b) the premises are suitable for the number and needs of service recipients using the care service; and
- (b) the location of the premises is appropriate to the needs of service recipients.

21 Fitness of premises for staff

The registered person must provide for staff —

- (a) suitable facilities and accommodation, other than sleeping accommodation; and
- (b) sleeping accommodation, if the provision of such accommodation is needed by staff in connection with their work at the care service.

22 Fitness of premises: health and safety

- (1) The registered person must —
 - (a) take adequate precautions against the risk of fire, including the provision of suitable fire equipment;
 - (b) provide adequate means of escape;

- (c) make adequate arrangements for —
 - (i) maintaining all fire equipment; and
 - (ii) reviewing fire precautions, and testing fire equipment, at suitable intervals;
 - (d) make arrangements for persons working at the care service to receive suitable training in fire prevention; and
 - (e) ensure, by means of fire drills and practices at suitable intervals, that the persons working at the care service and, so far as practicable, service recipients, are aware of the procedure to be followed in case of fire, including the procedure for saving life.
- (2) The registered person must ensure that the care service meets and continues to meet any relevant standards and statutory requirements including health and safety and food hygiene.

23 Review of quality of care

The registered person must establish and maintain a system for —

- (a) reviewing, in consultation with service recipients or their representative, at appropriate intervals; and
- (b) improving, as necessary,

the quality of care provided by the care service, including the quality of any nursing so provided.

24 Financial viability

The registered provider must carry on the care service in such manner as is likely to ensure that the care service will be financially viable for meeting the needs of service recipients.

25 Notice of changes

The registered person must give notice in the required form to DSC as soon as it is practicable to do so if any of the following events takes place or is proposed to take place —

- (a) the premises of the care service are significantly altered or extended, or additional premises are acquired.
- (b) if the registered provider is a partnership, there is any change in the partnership;
- (c) if the registered provider is a body corporate —
 - (i) the name or address of the body corporate is changed;
 - (ii) there is any change of director, manager, secretary or other similar officer of the body corporate;

- (d) if the registered provider is an individual, a trustee in bankruptcy is appointed;
- (e) if the registered provider is a body corporate or partnership, a receiver, manager, liquidator or provisional liquidator is appointed; or

26 Appointment of liquidators etc.

- (1) This paragraph applies to any person appointed as —
 - (a) the receiver or manager of the property of a body corporate or partnership which is a registered provider in respect of a care service;
 - (b) a liquidator or provisional liquidator of a body corporate which is a registered provider of a care service; or
 - (c) the trustee in bankruptcy of a registered provider of a care service.
- (2) Any person to whom paragraph (1) applies must —
 - (a) immediately notify DSC of the person's appointment and the reasons for it;
 - (b) if there is no registered manager, appoint a person to take full-time day to day charge of the care service; and
 - (c) within 28 days of the person's appointment notify DSC of the person's intentions regarding the future carrying on of the care service.
- (3) Any person appointed under paragraph (2)(b) must meet the mandatory conditions for manager registration under Part 3 of the Act and an application for the person's registration as the manager of the care service must be made forthwith.

27 Compliance with regulations if there is more than one registered person for a care service

If there is more than one registered person for a care service, anything which must be done under these Regulations by the registered person shall, if done by one of the registered persons, not have to be done by any of the other registered persons.

PART 4 – FEES

28 Annual fees

- (1) Schedule 1 sets out the annual fees pursuant to section 71(1) (prescribed annual fee payable by person registered under the Act).
- (2) In Schedule 1 —

- (a) Part 1 specifies the prescribed annual fee for childminder registration for the purposes of section 71(1);
- (b) Part 2 specifies the prescribed annual fee for registration in respect of agencies and establishments which are care services other than for childminder registration for the purposes of section 71(1).

29 Prescribed times for payment of annual fee

A registered person must pay –

- (a) in the first year of registration an annual fee due a month after registration is granted; and
- (b) in each subsequent year of registration an annual fee due on the first day of April of that year.

MADE 15 OCTOBER 2013

SCHEDULE 1

ANNUAL FEES

PART 1 – CHILDMINDER REGISTRATION

1 Annual fee for childminder registration

For the purposes of section 71(1) (annual fees), the prescribed annual fee for childminder registration is £55.²

PART 2 – REGISTRATION FOR OTHER AGENCIES AND ESTABLISHMENTS

2 Annual fee for agency or an independent clinic which is a care service

For the purposes of section 71(1) (annual fees), the prescribed annual fee in respect of an agency or independent clinic is shown in Table 1.

Table 1³

| Care service description | Fee |
|---|------|
| fewer than 3 persons are employed on a full-time basis | £320 |
| 3 or more but fewer than 16 persons are employed on a full time basis | £475 |
| any other agency or independent clinic | £635 |

3 Annual fee for establishment which is a care service

- (1) For the purposes of section 71(1), the prescribed annual fee in respect of an adult day centre, a child day care centre or a mental health day centre is shown in Table 2.

Table 2⁴

| Care service description | Fee |
|---|------|
| operating less than 60 days per year | £80 |
| fewer than 10 approved places | £105 |
| 10 or more but fewer than 21 approved places | £160 |
| any other adult day centre, child day care centre or mental health day centre | £210 |

- (2) For the purposes of section 71(1), the prescribed annual fee in respect of an adult care home, a childrens home, a child (secure accommodation) establishment, an independent hospital, an offender accommodation service or a residential family centre is shown in Table 3.

Table 3⁵

| Care service description | Fee |
|---|-----------------------------------|
| fewer than 20 approved places | £55 x number of registered places |
| 20 or more but fewer than 41 approved places | £60 x number of registered places |
| any other adult care home, children's home, child (secure accommodation) establishment, independent hospital, offender accommodation service or residential family centre | £65 x number of registered places |

ENDNOTES

Table of Endnote References

¹ The format of this legislation has been changed as provided for under section 75 of, and paragraph 2 of Schedule 1 to, the Legislation Act 2015. The changes have been approved by the Attorney General after consultation with the Clerk of Tynwald as required by section 76 of the Legislation Act 2015.

² Para 1 amended by SD2024/0074.

³ Table 1 substituted by SD2024/0074.

⁴ Table 2 substituted by SD2024/0074.

⁵ Table 3 substituted by SD2024/0074.