

## **Hospitals (Licensing and Conduct of Private Psychiatric Hostels) Amendment Regulations 2020**

**SL 2020/223**

Made by the Governor in Executive Council.

**1. Citation**

These regulations are the *Hospitals (Licensing and Conduct of Private Psychiatric Hostels) Amendment Regulations 2020*.

**2. Commencement**

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day after that day.

**3. Regulations amended**

These regulations amend the *Hospitals (Licensing and Conduct of Private Psychiatric Hostels) Regulations 1997*.

**4. Regulation 1 amended**

In regulation 1 before “*Hospitals*” insert:

*Private*

**5. Regulation 8 amended**

(1) After regulation 8(2) insert:

- (2A) Subregulation (2) does not apply if the licence holder acts in accordance with an alternative supervisory arrangement for the hostel approved under regulation 8A in relation to when a supervisor is to be present at the hostel.

(2) After regulation 8(4) insert:

- (5) Subregulation (4) does not apply if the person acts in accordance with an alternative supervisory arrangement for the hostel approved under regulation 8A in relation to who is to be in charge of the day-to-day operations of the hostel.

**6. Regulation 8A inserted**

After regulation 8 insert:

**8A. Alternative supervisory arrangements**

- (1) In this regulation —  
*carer* has the meaning given in the *Carers Recognition Act 2004* section 5;  
*close family member* has the meaning given in the *Mental Health Act 2014* section 281;  
*personal support person* has the meaning given in the *Mental Health Act 2014* section 4.
- (2) The licence holder of a hostel may apply to the CEO for approval of an arrangement (an **alternative supervisory arrangement**) setting out either or both of the following —
- (a) when a supervisor is to be present at the hostel;
  - (b) who is to be in charge of the day-to-day operations of the hostel.
- (3) The application must be in writing and set out —
- (a) the alternative supervisory arrangement for which the licence holder is applying for approval; and
  - (b) the reasons why the licence holder wants to operate the hostel under an alternative supervisory arrangement, including evidence that the residents of the hostel do not require a supervisor to be present at the hostel at all times; and
  - (c) how the licence holder will provide notice of the alternative supervisory arrangement to —
    - (i) each resident; and
    - (ii) any carer, close family member or other personal support person of each resident.
- (4) The CEO may approve an alternative supervisory arrangement for a hostel if satisfied that —

- (a) the residents of the hostel do not require a supervisor to be present at the hostel at all times; and
  - (b) the licence holder will provide sufficient notice of the alternative supervisory arrangement to the persons referred to in subregulation (3)(c); and
  - (c) the alternative supervisory arrangement is appropriate in all of the circumstances.
- (5) If the CEO approves the alternative supervisory arrangement, the CEO may grant the alternative supervisory arrangement subject to conditions.
- (6) After making a decision under subregulation (4), the CEO must —
  - (a) give the licence holder written notice of the CEO’s decision; and
  - (b) if the alternative supervisory arrangement is granted subject to conditions — set out the conditions to which the alternative supervisory arrangement is subject in the written notice to the licence holder; and
  - (c) if the decision is not to grant the alternative supervisory arrangement, or grant the alternative supervisory arrangement subject to conditions — set out the reasons for the decision in the written notice to the licence holder.

**7. Regulation 9 amended**

In regulation 9 in the Penalty after “Penalty:” insert:

a fine of

**8. Regulation 10 amended**

(1) Before regulation 10(1) insert:

- (1A) The licence holder of a hostel must ensure that food the licence holder serves to the residents in the hostel is hygienically and properly stored, preserved and served.  
Penalty for this subregulation: a fine of \$500.

(2) In regulation 10(1):

- (a) delete “is to ensure that constant attention is given to the hygienic and proper storage, preservation and serving of food in the hostel and that — ” and insert:

must ensure that —

- (b) in paragraph (b) delete “or fruit juice” and insert:

and vegetables

- (3) Delete regulation 10(2) and insert:

- (2) In subregulation (1) —

***National Health and Medical Research Council***  
means the National Health and Medical Research Council established by the *National Health and Medical Research Council Act 1992* (Commonwealth) section 5B.

- (3) Subregulation (1) does not apply if the licence holder acts in accordance with a food exemption for the hostel approved under regulation 10A.

Note: The heading to amended regulation 10 is to read:

**Food provision at hostels**

**9. Regulation 10A inserted**

After regulation 10 insert:

**10A. CEO may exempt licence holders from having to serve food to residents**

- (1) The licence holder of a hostel may apply to the CEO for an exemption (a ***food exemption***) from the requirements under regulation 10(1) for the hostel.
- (2) The application must be in writing and set out —
  - (a) the reasons the licence holder is applying for the exemption, including evidence that the residents of the hostel do not require food to be provided by the licence holder because the residents are able to provide their own food; and
  - (b) details of a proposed reduction in charges for residents of the hostel to reflect that food is not provided by the licence holder.
- (3) The CEO may approve a food exemption for a hostel if satisfied that —

- (a) the residents of the hostel do not require food to be provided by the licence holder because the residents are able to provide their own food; and
  - (b) the proposed reduction in charges is appropriate; and
  - (c) the food exemption is appropriate in all of the circumstances.
- (4) If the CEO grants the food exemption, the CEO —
  - (a) must grant the food exemption subject to the condition that the licence holder of the hostel reduces the charges in accordance with the reduction set out in the application; and
  - (b) may grant the food exemption subject to other conditions.
- (5) After making a decision under subregulation (3), the CEO must —
  - (a) give the licence holder written notice of the CEO's decision; and
  - (b) set out the conditions to which the food exemption is subject in the written notice to the licence holder; and
  - (c) if the decision is not to grant the food exemption, or grant the exemption subject to conditions under subregulation (4)(b) — set out the reasons for the decision in the written notice to the licence holder.

**10. Regulation 12 replaced**

Delete regulation 12 and insert:

**12. Giving clothing and toiletries to residents**

- (1) A licence holder of a hostel must give each resident —
  - (a) clothing of a reasonable quality that is necessary for the resident, including under and outer garments, headgear, footwear and night attire; and
  - (b) toiletries of a reasonable quality that are necessary for the resident to maintain a reasonable standard of personal hygiene.

Penalty for this subregulation: a fine of \$500.

- (2) Subregulation (1) does not apply if the licence holder acts in accordance with a clothing and toiletries

exemption for the hostel approved under regulation 12A.

**12A. CEO may exempt licence holders from having to give clothing and toiletries to residents**

- (1) The licence holder of a hostel may apply to the CEO for an exemption (a *clothing and toiletries exemption*) from the requirements under regulation 12(1) for the hostel.
- (2) The application must be in writing and set out —
  - (a) the reasons the licence holder is applying for the exemption, including evidence that the residents of the hostel do not require clothing and toiletries to be provided by the licence holder; and
  - (b) details of a proposed reduction in charges for residents of the hostel to reflect that clothing and toiletries are not provided by the licence holder.
- (3) The CEO may approve a clothing and toiletries exemption for a hostel if satisfied that —
  - (a) the residents of the hostel do not require clothing and toiletries to be provided by the licence holder; and
  - (b) the proposed reduction in charges is appropriate; and
  - (c) the clothing and toiletries exemption is appropriate in all of the circumstances.
- (4) If the CEO grants the clothing and toiletries exemption, the CEO —
  - (a) must grant the clothing and toiletries exemption subject to the condition that the licence holder of the hostel reduces the charges in accordance with the reduction set out in the application; and
  - (b) may grant the clothing and toiletries exemption subject to other conditions.
- (5) After making a decision under subregulation (3), the CEO must —
  - (a) give the licence holder written notice of the CEO's decision; and
  - (b) set out the conditions to which the clothing and toiletries exemption is subject in the written notice to the licence holder; and
  - (c) if the decision is not to grant the clothing and toiletries exemption, or grant the exemption

subject to conditions under  
subregulation (4)(b) — set out the reasons for  
the decision in the written notice to the licence  
holder.

**11. Regulation 13 amended**

In regulation 13 in the Penalty after “Penalty:” insert:

a fine of

**12. Regulation 16 replaced**

Delete regulation 16 and insert:

**16. Notice of intention to close hostel**

- (1) The licence holder of a hostel must give the CEO written notice of an intention to close the hostel.
- (2) The notice must be given —
  - (a) if there are fewer than 10 residents at the hostel — not later than 90 days before the day on which the hostel is intended to be closed; or
  - (b) if there are between 10 and 49 residents at the hostel — not later than 180 days before the day on which the hostel is intended to be closed; or
  - (c) if there are more than 49 residents at the hostel — not later than 270 days before the day on which the hostel is intended to be closed.

Penalty for this subregulation: a fine of \$500.

**13. Regulation 18 amended**

In regulation 18:

- (a) delete “is not to — ” and insert:

must not —

- (b) in paragraph (b) delete “regulation 18.” and insert:

regulation 17.

- (c) in the Penalty after “Penalty:” insert:

a fine of

Note: The heading to amended regulation 18 is to read:

**Offence of obstructing or misleading CEO or authorised person**

**14. Various penalties amended**

In the provisions listed in the Table delete “Penalty:” and insert

Penalty for this subregulation: a fine of

**Table**

r. 8(2) and (4)	r. 10(1)
r. 11(2)	r. 14(1)
r. 15(2)	r. 17(4)

N. HAGLEY, Clerk of the Executive Council.

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