



Western Australia

Hospitals (Licensing and Conduct of Private Psychiatric Hostels) Regulations 1997

Compare between:

[25 May 2018, 02-h0-00] and [01 Jul 2018, 02-i0-01]

Hospitals (Licensing and Conduct of Private Psychiatric Hostels) Regulations 1997

1. Citation

These regulations may be cited as the *Hospitals (Licensing and Conduct of Private Psychiatric Hostels) Regulations 1997*¹.

2. Commencement

These regulations come into operation on the same day as the *Mental Health Act 1996* comes into operation¹.

3. Terms used

In these regulations —

Chief Psychiatrist has the same meaning as in the *Mental Health Act 2014* section 4;

hostel means a private psychiatric hostel, within the meaning of Part IIIB of the Act, and when referred to in relation to a licence, means the hostel to which the licence relates;

licence means a licence to conduct a private psychiatric hostel granted under the Act;

supervisor means a natural person —

- (a) referred to in section 26B(2), (3)(c) or (4)(c), as read with section 26Q, of the Act; or
- (b) approved under regulation 7;

resident has the same meaning as in Part IIIB of the Act.

[Regulation 3 amended ~~in~~: Gazette 29 Dec 2015 p. 5174.]

4. Term used: licence holder

In these regulations, other than regulations 7 and 16 —

licence holder in relation to —

- (a) a licence held by a firm, means the firm and each natural person by whom the firm is constituted and each person concerned in the management and conduct of any body corporate by which the firm is constituted; and
- (b) a licence held by a body corporate, means the body corporate and each person concerned in the management and conduct of the body corporate.

5. Licences, application for, duration of etc.

- (1) An applicant for a licence is to pay to the CEO a fee calculated in accordance with Schedule 1 item 1 before the licence is granted.
- (2) Subject to the Act, a licence has effect on and from the day on which it is granted and expires on the next 1 January.
- (3) An applicant for the renewal of a licence is to pay to the CEO a fee calculated in accordance with Schedule 1 item 2 before the licence is renewed.
- (4) An application for the renewal of a licence is to be made to the CEO on or before 30 November in the year preceding the year to which the licence relates.
- (5) Subject to the Act, a licence renewed by the CEO has effect on and from the next 1 January and expires at the end of that year.
- (6) The CEO must issue an applicant for a replacement licence with a replacement on payment of the fee set out in Schedule 1 item 3, if satisfied that the licence has been lost, damaged or destroyed.

*[Regulation 5 amended ~~in~~ Gazette 15 Dec 2006 p. 5627;
30 Oct 2009 p. 4308.]*

6. Fee for application for approval of premises

An applicant for the approval of any premises as a hostel is to pay a fee calculated in accordance with Schedule 1 item 4 to the CEO before that approval is granted.

*[Regulation 6 amended-~~in~~: Gazette 15 Dec 2006 p. 5627;
30 Oct 2009 p. 4309.]*

7. Supervisors of hostels, approval of etc.

- (1) The CEO may, on the written application of a licence holder, approve a natural person as a supervisor of a hostel if the CEO is of the opinion that person is a fit and proper person to be in charge of the day to day management of a hostel.
- (2) The CEO may withdraw the approval of a person as a supervisor if the CEO is satisfied —
 - (a) that the supervisor has failed to conduct a hostel in a proper manner; or
 - (b) that the conduct of the supervisor is such as to show that the supervisor is not a suitable person to be in charge of the day to day management of a hostel.

*[Regulation 7 amended-~~in~~: Gazette 15 Dec 2006 p. 5627;
29 Jan 2016 p. 274.]*

8. Management of hostels

- (1) The licence holder of a hostel is responsible for the management of the hostel, the care of residents and the supervision of staff at the hostel.
- (2) The licence holder of a hostel is to ensure that a supervisor is present at the hostel at all times.
Penalty: \$500.
- (3) A supervisor is responsible for the day to day operations of the hostel.

- (4) A person who is not a supervisor is not to be in charge of the day to day operations of a hostel.

Penalty: \$500.

9. Management of animals at hostels

The supervisor of a hostel is to ensure that any animal kept at the hostel is effectively managed and does not constitute a nuisance or health risk to the residents.

Penalty: \$500.

10. Food preparation and diet at hostels

- (1) The licence holder of a hostel is to ensure that constant attention is given to the hygienic and proper storage, preservation and serving of food in the hostel and that —

- (a) food is supplied in such quantities that the dietary allowances recommended by the National Health and Medical Research Council are provided by that food; and
- (b) residents receive fresh fruit or fruit juice daily; and
- (c) residents on therapeutic diets or special diets are provided with food appropriate to those diets; and
- (d) a particular menu is not repeated at an interval of less than 4 weeks; and
- (e) standard food portion sizes are developed and used as a guide to preparing and serving food; and
- (f) components of a puree diet are prepared and served as individual food items; and
- (g) meals are served at reasonable hours, with breakfast not being served before 7 a.m., the midday meal not being served before 12 noon and the evening meal not being served before 5 p.m. and, if the evening meal is served before 5.30 p.m., supper is to be served between 7.30 p.m. and 9.30 p.m.

Penalty: \$500.

- (2) In this regulation —

National Health and Medical Research Council means the council of that name established by section 6 of the *National Health and Medical Research Council Act 1992* of the Commonwealth.

11. Administration of drugs at hostels

- (1) In this regulation —

medical practitioner means a person who is registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession.

- (2) The supervisor of a hostel is to ensure that no drug is administered at the hostel to a resident except on the prescription of a medical practitioner.

Penalty: \$500.

[Regulation 11 amended ~~in~~ Gazette 1 Apr 2011 p. 1181.]

12. Clothing and toiletries for residents

A licence holder is to ensure that there is provided for each resident —

- (a) all clothing necessary for that resident, including under and outer garments, headgear, footwear and night attire; and
- (b) basic toiletry items, including soap, talcum powder and toothpaste,

at no extra cost to the resident.

Penalty: \$500.

13. Certain events to be reported to Chief Psychiatrist

The supervisor is to ensure that there is reported to the Chief Psychiatrist —

[(a) *deleted*]

- (b) as soon as is reasonably possible, if the supervisor considers any resident to be at risk of harming any person, including the resident; and
- (c) the death of any resident, by the end of the next working day following the death.

Penalty: \$500.

[Regulation 13 amended ~~in~~ Gazette 12 Apr 2011 p. 1310;
29 Jan 2016 p. 274.]

14. Minimum proportion of pension for resident's use

- (1) If a resident of a hostel is in receipt of a pension payable under laws of the Commonwealth, the licence holder of the hostel is to ensure that there is paid or remitted to the resident for the resident's own use, at least 12.5% of the basic pension.

Penalty: \$500.

- (2) In this regulation —

basic pension does not include any part of a pension that is to pay for, or offset, the accommodation costs of the recipient.

[Regulation 14 amended ~~in~~ Gazette 29 Jan 2016 p. 274.]

15. Register of information about residents

- (1) The licence holder of a hostel is to ensure that there is kept on the premises of the hostel a register in a form approved by the CEO.
- (2) The supervisor of a hostel is to ensure that the following information is recorded in that register —
 - (a) the full name, date of birth and next of kin of each resident; and
 - (b) notes on the day to day behaviour, personal presentation and social development of each resident; and
 - (c) details of any private property or valuables stored for the resident; and

- (d) details of all drugs prescribed for each resident and details as to the administration of those drugs; and
- (e) particulars of any unusual incidents; and
- (f) a copy of each report made to the Chief Psychiatrist under regulation 13; and
- (g) such financial and statistical information regarding the hostel as is required by the CEO.

Penalty: \$500.

[Regulation 15 amended ~~in~~: Gazette 15 Dec 2006 p. 5627.]

16. Closure of hostel, advance notice to be given of

The licence holder of a hostel is to give to the CEO at least 90 days written notice before closing the hostel.

Penalty: \$500.

[Regulation 16 amended ~~in~~: Gazette 15 Dec 2006 p. 5627.]

17. Inspection of hostels

- (1) The CEO or a person authorised by the CEO, may inspect any hostel, whether or not notice has been given.
- (2) The inspection may be at any time and for as long as the CEO or the authorised person sees fit.
- (3) In the course of the inspection, the CEO or authorised person may —
 - (a) inspect any part of the hostel; and
 - (b) interview any resident who has not declined to be seen; and
 - (c) make enquiries as to the care and treatment of any resident; and
 - (d) require the production of any record, document or register required to be kept under these regulations or under the licence; and

- (e) take copies of, or extracts from, any such record, document or register.
- (4) A licence holder, supervisor or other person having an official capacity at a hostel is to —
 - (a) afford any assistance that may be requested for the purpose of exercising any power under this regulation; and
 - (b) answer any query that may be made under this regulation by the CEO or authorised person.

Penalty: \$500.

[Regulation 17 amended ~~in~~ Gazette 15 Dec 2006 p. 5627.]

18. Obstructing CEO etc., offence

A person is not to —

- (a) obstruct the CEO or authorised person exercising any powers under regulation 17; or
- (b) wilfully mislead the CEO or authorised person in such a way as to interfere with the exercise of any power by the CEO or authorised person under regulation 18.

Penalty: \$500.

[Regulation 18 amended ~~in~~ Gazette 15 Dec 2006 p. 5627.]

Schedule 1 — Fees

[Heading inserted ~~in~~ Gazette ~~30 Oct 2009~~ 25 May 2018
p. ~~4309~~ 1636.]

Item	Description		Fee (\$)
1.	Grant of licence (r. 5(1))		1 210 240
2.	Renewal of licence (r. 5(3))	Number of persons licensed to be accommodated — Fewer than 25 ----- 25-100 ----- 101-200 ----- more than 201 -----	1 200 23 0 1 250 28 0 1 450 48 5 1 990 2 0 40
3.	Replacement licence (r. 5(6))		348 355
4.	Approval of premises as a private psychiatric hostel (r. 6)	Number of persons licensed to be accommodated — Fewer than 25 ----- 25-100 ----- 101-200 ----- more than 201 -----	6 875 7 950 05 0 8 150 11 085 14 185

[Schedule 1 inserted ~~in~~ Gazette ~~30 Oct 2009~~ 25 May 2018 p. ~~4309~~;
~~amended in~~ Gazette 27 Apr 2010 p. 1582; 6 Jun 2014 p. 1791;
29 Jan 2016 p. 274 5; 17 Jun 2016 p. 2100; 30 Jun 2017
p. ~~3570~~ 1636-7.]

Notes

- ¹ This is a compilation of the *Hospitals (Licensing and Conduct of Private Psychiatric Hostels) Regulations 1997* and includes the amendments made by the other written laws referred to in the following table.^{1a} The table also contains information about any reprint.

Compilation table

Citation	Gazettal	Commencement
<i>Hospitals (Licensing and Conduct of Private Psychiatric Hostels) Regulations 1997</i>	7 Nov 1997 p. 6119-27	13 Nov 1997 (see r. 2)
Reprint 1: The Hospitals (Licensing and Conduct of Private Psychiatric Hostels) Regulations 1997 as at 2 Apr 2004		
<i>Hospitals (Licensing and Conduct of Private Psychiatric Hostels) Amendment Regulations 2006</i>	15 Dec 2006 p. 5626-7	15 Dec 2006
<i>Hospitals (Licensing and Conduct of Private Psychiatric Hostels) Amendment Regulations 2009</i>	30 Oct 2009 p. 4308-9	r. 1 and 2: 30 Oct 2009 (see r. 2(a)); Regulations other than r. 1 and 2: 31 Oct 2009 (see r. 2(b))
<i>Hospitals (Licensing and Conduct of Private Psychiatric Hostels) Amendment Regulations 2010</i>	27 Apr 2010 p. 1582	r. 1 and 2: 27 Apr 2010 (see r. 2(a)); Regulations other than r. 1 and 2: 28 Apr 2010 (see r. 2(b))
<i>Hospitals (Licensing and Conduct of Private Psychiatric Hostels) Amendment Regulations 2011</i>	1 Apr 2011 p. 1180-1	r. 1 and 2: 1 Apr 2011 (see r. 2(a)); Regulations other than r. 1 and 2: 2 Apr 2011 (see r. 2(b))
<i>Hospitals (Licensing and Conduct of Private Psychiatric Hostels) Amendment Regulations (No. 2) 2011</i>	12 Apr 2011 p. 1310	r. 1 and 2: 12 Apr 2011 (see r. 2(a)); Regulations other than r. 1 and 2: 13 Apr 2011 (see r. 2(b))
Reprint 2: The Hospitals (Licensing and Conduct of Private Psychiatric Hostels) Regulations 1997 as at 8 Jul 2011 (includes amendments listed above)		
<i>Hospitals (Licensing and Conduct of Private Psychiatric Hostels) Amendment Regulations 2014</i>	6 Jun 2014 p. 1790-1	r. 1 and 2: 6 Jun 2014 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2014 (see r. 2(b))
<i>Hospitals (Licensing and Conduct of Private Psychiatric Hostels) Amendment Regulations 2015</i>	29 Dec 2015 p. 5173-4	r. 1 and 2: 29 Dec 2015 (see r. 2(a)); Regulations other than r. 1 and 2: 30 Dec 2015 (see r. 2(b))

**Hospitals (Licensing and Conduct of Private Psychiatric Hostels)
Regulations 1997**

Citation	Gazettal	Commencement
<i>Hospitals (Licensing and Conduct of Private Psychiatric Hostels) Amendment Regulations 2016</i>	29 Jan 2016 p. 273-5	r. 1 and 2: 29 Jan 2016 (see r. 2(a)); Regulations other than r. 1 and 2: 30 Jan 2016 (see r. 2(b))
<i>Hospitals Regulations Amendment (Licensing and Conduct Fees) Regulations 2016 Pt. 3</i>	17 Jun 2016 p. 2099-2100	1 Jul 2016 (see r. 2(b))
<i>Health Regulations Amendment (Fees and Charges) Regulations 2017 Pt. 7</i>	30 Jun 2017 p. 3568-74	1 Jul 2017 (see r. 2(b))

~~^{1a} On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.~~

Provisions that have not come into operation

Citation	Gazettal	Commencement
<i>Health Regulations Amendment (Fees and Charges) Regulations 2018 Pt. 7³</i>	25 May 2018 p. 1632-9	1 Jul 2018 (see r. 2(b))

² Formerly referred to the *Hospitals and Health Services Act 1927*, the short title of which was changed to the *Private Hospitals and Health Services Act 1927* by the *Health Services Act 2016* s. 261.

~~³ On the date as at which this compilation was prepared, the *Health Regulations Amendment (Fees and Charges) Regulations 2018 Pt. 7* had not come into operation. It reads as follows:~~

~~Part 7 — Hospitals (Licensing and Conduct of Private Psychiatric Hostels) Regulations 1997 amended~~

~~13. — Regulations amended~~

~~— This Part amends the *Hospitals (Licensing and Conduct of Private Psychiatric Hostels) Regulations 1997*.~~

~~14. — Schedule 1 replaced~~

~~— Delete Schedule 1 and insert:~~

Schedule 1—Fees

Item	Description		Fee (\$)
1.	Grant of licence (r. 5(1))		1 240
2.	Renewal of licence (r. 5(3))	Number of persons licensed to be accommodated— Fewer than 25 25-100 101-200 more than 201	1 230 1 280 1 485 2 040
3.	Replacement licence (r. 5(6))		355
4.	Approval of premises as a private psychiatric hostel (r. 6)	Number of persons licensed to be accommodated— Fewer than 25 25-100 101-200 more than 201	7 050 8 150 11 085 14 185