



STATUTORY INSTRUMENTS.

S.I. No. 635 of 2017



HEALTH ACT 2007 (REGISTRATION OF DESIGNATED CENTRES)
(SPECIAL CARE UNITS) REGULATIONS 2017

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I, SIMON HARRIS, Minister for Health, in exercise of the powers conferred on me by sections 98, 99 and 101 of the Health Act 2007 (No. 23 of 2007) (as adapted by the Health and Children (Alteration of Name of Department and Title of Minister) Order 2011 (S.I. No. 219 of 2011)), hereby make the following regulations:

Citation and Commencement

1. (1) These Regulations may be cited as the Health Act 2007 (Registration of Designated Centres) (Special Care Units) Regulations 2017.

(2) These Regulations come into operation on 1 January, 2018.

Interpretation

2. In these Regulations—

“the Act of 1991” means the Child Care Act 1991 (No. 17 of 1991);

“the Act of 2007” means the Health Act 2007 (No. 23 of 2007);

“the Act of 2011” means the Child Care (Amendment) Act 2011 (No. 19 of 2011);

“annual fee” means a fee, including any portion of a fee, payable to the Authority in respect of each 12 month period or portion thereof—

(a) under Regulation 8, by a registered provider from the date specified in paragraph (6) of that Regulation, or

(b) under Regulation 9, by a person carrying on the business of a special care unit in accordance with section 48 of the Act of 2011 from the date these Regulations come into operation until such time as registration is granted by the chief inspector under section 50 of the Act of 2007 and the person accordingly becomes the unit’s registered provider;

“Authority” means the Health Information and Quality Authority established under section 6 of the Health Act 2007;

“certificate of registration” means a certificate issued by the chief inspector on granting an application for the registration or renewal of registration of a special care unit under section 50 of the Act of 2007 or when complying with an order of the District Court under section 57 of the Act of 2007;

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 9th January, 2018.*

“chief inspector” means the person who is for the time being appointed Chief Inspector of Social Services in accordance with section 40 of the Act of 2007;

“child” means a child that requires special care in accordance with the provisions of section 23F (inserted by section 10 of the Act of 2011) of the Act of 1991;

“competent person” means a person who possesses sufficient training, qualifications, experience and knowledge appropriate to—

- (a) the nature of the fire safety risk assessment, having regard to the size or hazards (or both) of the building to be assessed, and
- (b) relevant health and safety requirements in relation to active and on-going fire safety management;

“date of registration” means the date on which registration of a special care unit by the chief inspector is to take effect;

“registration fee” means the fee payable to the Authority by a person seeking to register or renew the registration of a special care unit under section 48 of the Act of 2007;

“staff member” means a person employed by the registered provider to work at the special care unit and includes a person employed by another agency who is working at the special care unit, but does not include a person who works in the special care unit as an intern, a trainee, a person on a placement as part of a vocational training course or a person engaged under a contract for services;

“special care unit” has the meaning assigned to it in section 23A (inserted by section 10 of the Act of 2011) of the Act of 1991;

Register

3. (1) The chief inspector shall establish and maintain a register of special care units (in these Regulations referred to as “the register”) registered under these Regulations.

(2) In addition to the requirements set out in section 49(1) of the Act of 2007, the chief inspector shall enter into the register the information set out in Schedule 1 and such other particulars relating to the special care unit deemed relevant by the chief inspector from time to time.

(3) The chief inspector shall amend the register—

- (a) on receiving notice under Regulation 6 of any change to information supplied for registration purposes where the change is acceptable to the chief inspector,
- (b) on the taking effect, in accordance with section 55(3) of the Act of 2007 of a decision, notified to the registered provider under section 55(1) of that Act, to—

- (i) vary or remove a condition attached to registration of a special care unit, or
- (ii) attach an additional condition to registration of a special care unit, or
- (c) when complying with an order by the District Court in accordance with section 57(4) of the Act of 2007 or with an order by the Circuit Court in accordance with section 62 of the Act of 2007, to vary or remove a condition or attach an additional condition.

(4) When the chief inspector receives notice under Regulation 10 from a registered provider of the intention to cease to carry on the business of a special care unit and close the unit, the chief inspector shall make a note to that effect in the register.

(5) The chief inspector shall make a note in the register where a person has been appointed by or under the law to take charge of a special care unit in place of its registered provider under section 68 of the Act of 2007.

(6) When the chief inspector has been notified by a person under section 48(7) of the Act of 2011 that the person is carrying on the business of a special care unit, the chief inspector shall note on the register the name and address of the unit and the name and address of the person carrying on the business of the unit.

Application for registration or renewal of registration

4. (1) A person seeking to register or renew the registration of a special care unit, including a person carrying on the business of a special care unit in accordance with section 48(6) of the Act of 2011, shall make an application for its registration to the chief inspector in the form determined by the chief inspector and shall include the information set out in Schedule 2, along with such additional information and documentation in such forms as the chief inspector may reasonably require.

(2) In addition to the requirements set out in section 48(2) of the Act of 2007, an application for the registration or the renewal of registration of a special care unit shall be accompanied by—

- (a) the information and documents set out in Schedule 3 in respect of—
 - (i) the person who is the registered provider, or intended registered provider, and
 - (ii) the person in charge or to be in charge of the special care unit and any other person who participates, or will participate, in the management of the special care unit, and
- (b) a certificate in writing from a competent person verifying compliance with the special care unit's fire safety policy, such policy having regard

to, but not being limited by, those matters outlined in Schedule 4 to these Regulations.

(3) Notwithstanding the requirements of paragraph (2), in the case of an application for the renewal of registration the application is not required to be accompanied by the information and documents set out in paragraph 3(d), (e), (f), (g), (h) and (i) of Schedule 3, in respect of the person in charge and any other persons participating in the management of the special care unit, in circumstances where there is no change to the information that is currently published on the register and a declaration, in a format prescribed by the chief inspector, is signed to that effect, by the applicant.

(4) The fee to accompany an application for the registration or the renewal of registration of a special care unit under section 48 of the Act of 2007 is €500.

(5) In accordance with section 48(2)(c) of the Act of 2007, an application under this article is not complete unless accompanied by the prescribed fee.

(6) Fees prescribed under this Regulation are payable to the Authority.

Issuing of certificates and contents of certificates of registration

5. (1) In addition to the requirements set out in section 50(3) of the Act of 2007, the chief inspector shall note on a certificate of registration issued in accordance with that section, the information set out in Schedule 1.

(2) The chief inspector shall amend a certificate of registration and issue the amended certificate to the registered provider as soon as practicable after—

- (a) receiving notice under Regulation 6 of any change to information supplied for registration purposes where the change is acceptable to the chief inspector,
- (b) the taking effect, in accordance with section 55(3) of the Act of 2007, of a decision notified to the registered provider under section 55(1) of that Act—
 - (i) to vary or remove a condition attached to registration of a special care unit, or
 - (ii) to attach an additional condition to registration of a special care unit, or
- (c) complying with an order by the District Court in accordance with section 57(4) of the Act of 2007, or with an order by the Circuit Court in accordance with section 62 of the Act of 2007, to vary or remove a condition or attach an additional condition.

Changes to information supplied for registration purposes

6. (1) The registered provider shall as soon as practicable—
- (a) give notice in writing to the chief inspector of any intended change in the identity of the person in charge of a special care unit, and
 - (b) the information set out in paragraph 5 of Schedule 2 and paragraph 3 of Schedule 3 in respect of the new person proposed to be in charge of the special care unit.
- (2) Notwithstanding paragraph (1), the registered provider shall in any event—
- (a) notify the chief inspector in writing, within 10 days of this occurring, where the person in charge of a special care unit has ceased to be in charge, and
 - (b) supply, within 10 days of the appointment of a new person in charge of the special care unit, the information set out in paragraph 5 of Schedule 2 and paragraph 3 of Schedule 3 in respect of the new person in charge.
- (3) The registered provider shall notify the chief inspector in writing of any change in the identity of any person participating in the management of a special care unit (other than the person in charge of the unit) within 28 days of the change and supply the information set out in paragraph 5 of Schedule 2 and paragraph 3 of Schedule 3 in respect of such person.
- (4) The registered provider shall give not less than 8 weeks' notice in writing to the chief inspector if—
- (a) in the case of a registered provider which is a body corporate (whether a company or other corporate body), there will be any change to—
 - (i) the ownership of the body,
 - (ii) the identity of its director, manager, secretary, chief executive or any similar officer of the body, or
 - (iii) the name or address of the body,
 - (b) in the case of a registered provider which is a partnership, there will be any change in the membership of the partnership, or
 - (c) in the case of a registered provider which is an unincorporated body, there will be any change to the committee of management or other controlling authority of the body,

and shall supply the information set out in Schedule 2 and Schedule 3 in respect of any new person proposed to be registered as a person carrying on the business of the special care unit under subparagraph (a), (b) or (c).

(5) The chief inspector may accept a later notification of any of the matters referred to in this article where the chief inspector is of the opinion that it would be appropriate to do so.

Applications by registered providers for the variation or removal of conditions of registration

7. (1) A registered provider who wishes to apply under section 52 of the Act of 2007 for the variation or removal of any condition or conditions of registration attached by the chief inspector under section 50 of that Act must make an application in the form determined by the chief inspector.

(2) An application under section 52 of the Act of 2007 must specify the following:

- (a) the condition to which the application refers and whether the application is for the variation or the removal of the condition or conditions;
- (b) where the application is for the variation of a condition or conditions, the variation sought and the reason or reasons for the proposed variation;
- (c) where the application is for the removal of a condition or conditions, the reason or reasons for the proposed removal; and
- (d) changes proposed in relation to the special care unit as a consequence of the variation or removal of a condition or conditions, including—
 - (i) structural changes to the premises that are used as a special care unit,
 - (ii) additional staff members, facilities or equipment, and
 - (iii) changes to the management of the special care unit that the registered provider believes are required to carry the proposed changes into effect.

(3) A registered provider must provide the chief inspector with any additional information the chief inspector reasonably requires in considering the application.

(4) The fee to accompany an application in accordance with section 52(3) of the Act of 2007 for the variation of a condition or conditions of registration is €200.

(5) The fee to accompany an application for the removal of a condition or conditions of registration in accordance with section 52(3) of the Act of 2007 is €100.

(6) An application under this Regulation is not properly made unless accompanied by the prescribed fee.

(7) Fees prescribed under this Regulation are payable to the Authority.

Annual fee payable by a registered provider of a special care unit

8. (1) The annual fee payable by a registered provider is €183 in respect of each child who can be detained in the special care unit in accordance with the statement entered in the register under Regulation 3.

(2) Subject to paragraph (3), the annual fee is payable by a registered provider in three equal instalments on 1 January, 1 May and 1 September each year in respect of each four month period immediately following those dates and each instalment is payable not later than the last day of the calendar month in which the instalment falls due.

(3) For the purposes of paragraph (2), the registered provider may, in a form determined by the chief inspector, declare to the Authority, by the 15th day of the calendar month in which the instalment falls due, the number of children detained in the special care unit.

(4) The number of children detained in the special care unit shall not exceed the number entered into the register under section 49(1) of the Act of 2007.

(5) Each instalment of fee payment shall be calculated on the basis of one third of the total amount for each child detained in the special care unit, declared by the registered provider, in accordance with paragraph (3).

(6) The first instalment of the annual fee is payable by a registered provider with effect from the date referred to in paragraph (2) which first falls after the date of registration and is payable not later than the last day of the calendar month in which payment falls due.

(7) Subject to paragraph (3), if the registered provider does not make a declaration, the fee payable shall be in respect of each child who can be detained in the special care unit in accordance with section 49(1) of the Act of 2007.

Annual fee payable by a person carrying on the business of a special care unit in accordance with section 48(6) of the Act of 2011

9. (1) Subject to paragraph (4), the annual fee payable by a person carrying on the business of a special care unit and providing residential services in accordance with section 48 of the Act of 2011 is €183 in respect of each child accommodated at the special care unit on 1 January, 2018 and thereafter the annual fee is €183 in respect of each child accommodated at the unite on the anniversary of that date, until the date of registration.

(2) The annual fee payable by a person carrying on the business of a special care unit and providing residential services in accordance with section 48 of the Act of 2011 is payable in three equal instalments on 1 January, 1 May and 1 September each year in respect of each four month period immediately following those dates and each instalment is payable not later than the last day of the calendar month in which payment falls due.

(3) The provisions of this article apply until such time as the chief inspector grants an application for registration under section 50 of the Act of 2007 and the provisions of Regulation 8 apply thereafter.

Notice to be given by a registered provider of a special care unit of intention to cease to carry on its business and close the special care unit

10. A registered provider of a special care unit shall provide the chief inspector with not less than 6 months' notice of intention to cease to carry on the business of the special care unit and close the unit. The chief inspector may accept a shorter notice period at his or her discretion.

Payment of fees

11. Fees payable in accordance with these Regulations shall be paid in the manner determined by the Authority.

SCHEDULE 1

Regulations 3 and 5

INFORMATION TO BE ENTERED ON THE REGISTER AND
CERTIFICATE OF REGISTRATION

1. Registration number assigned to the special care unit.
2. Date of registration and the expiry date.
3. Special Care Unit—
 - a. Name,
 - b. Address, and
 - c. Phone number.
4. Registered provider—
 - a. Name,
 - b. Address,
 - c. Phone number, and
 - d. Company registration office number (if applicable).
5. Person in charge—
 - a. Name, and
 - b. Phone number.
6. Each person participating in management of the special care unit—
 - a. Name, and
 - b. Phone number.
7. The number of children who can be detained in the special care unit.
8. Any conditions applying.

SCHEDULE 2

*Regulations 4 and 6*INFORMATION TO BE SUBMITTED WHEN APPLYING FOR THE
REGISTRATION OR RENEWAL OF REGISTRATION OF A SPECIAL
CARE UNIT

1. Registration number (if applicable).
2. Date and expiry date of current registration (if applicable).
3. Applicant details—
 - a. If the applicant or registered provider is a sole trader, details of the person with responsibility for completing the application—
 - i. Name,
 - ii. Business address,
 - iii. Phone number, and
 - iv. Email address.
 - b. If the applicant or registered provider is a partnership—
 - i. Name of partnership (if applicable),
 - ii. Partnership registration number and jurisdiction of registration,
 - iii. Name of each partner,
 - iv. Address of the principal place of business of the partnership,
 - v. Phone number of the principal place of business of the partnership, and
 - vi. Email address.
 - c. If the applicant or registered provider is a company—
 - i. Name of company,
 - ii. Company registration number,
 - iii. Category of company,
 - iv. Name of Chairperson
 - v. Name of each other director

- vi. Name of Secretary, Chief Executive or person in similar overall management position
 - vii. Address of registered offices of the company,
 - viii. Phone number of registered offices of the company, and
 - ix. Email address.
- d. If the applicant or registered provider is a body established under the Health Acts 1947 to 2013 or the Health (Corporate Bodies) Act 1961—
- i. Name of the person responsible on behalf of the body for the application and his or her role in relation to the special care unit, and
 - ii. Phone number and postal and email addresses of the person responsible on behalf of the body for the application, and
- e. If the applicant or registered provider is an unincorporated body—
- i. Name of unincorporated body,
 - ii. Phone number and postal and email addresses of the principal place of business of the body,
 - iii. Name of each member of the committee of management or other controlling authority of the body,
 - iv. Name of manager or chairperson of the body,
 - v. Name of the person responsible on behalf of the body for the application and his or her relationship with the body, and
 - vi. Phone number, postal and email address of the person responsible on behalf of the body for the application.
4. Special care unit details—
- a. Name of special care unit,
 - b. Address,
 - c. Main telephone number,
 - d. Email address,
 - e. Fax number (if applicable),
 - f. Website (if applicable),
 - g. Date (or proposed date) the special care unit was established (if applicable),

- h. A statement of the maximum number of children, who in the opinion of the applicant can be detained in the special care unit, and
- i. State whether the special care unit is currently a special care unit carried out in accordance with section 48 of the Act of 2011.

5. Management and Staff Details—

- a. Name and business phone number of the person in charge of the special care unit,
- b. Relationship of the person in charge with the registered provider including all partners in a partnership and all members of any managing committee, and
- c. Name and business phone number of each other person participating in the management of the special care unit, and

6. Facilities and Services—

- a. Whether the applicant is the owner or the tenant of the premises at which the business of the special care unit is or will be carried on and, if a tenant, state the name and address of the owner of the premises,
- b. Description of the premises, including accommodation and outdoor recreational facilities, and whether the premises are purpose-built or have been converted for use as a special care unit, and

Whether the intended registered provider or any staff member resides or will reside at the special care unit.

7. Statement of Purpose—

A copy of the statement of purpose compiled in accordance with Regulation 5 of the Health Act 2007 (Care and Welfare of Children in Special Care Units) Regulations 2017 (S.I. No. 634 of 2017).

SCHEDULE 3

Regulations 4 and 6

ADDITIONAL INFORMATION AND DOCUMENTS TO BE PROVIDED

1. Information required in respect of a registered provider or intended registered provider where the registered provider or intended registered provider is a body corporate (whether a company or other corporate body), a sole trader, a partnership or an unincorporated body:

- (a) Proof of identity;
- (b) A vetting disclosure in accordance with the National Vetting Bureau (Children and Vulnerable Persons) Act 2012;
- (c) In so far as is practicable, where the person has lived in a state other than the State for a period of longer than 6 consecutive months, vetting information in respect of the person obtained from the police authorities in that state;
- (d) Details of any previous experience of carrying on the business of a special care unit or services registered with another regulator or social care sector in Ireland or in another state; and
- (e) Any other such information as the chief inspector reasonably requires for the purposes of section 50 of the Act of 2007.

2. Information required in respect of a registered provider or intended registered provider where the registered provider or intended registered provider is a body established under the Child and Family Agency Act 2013:

Such information as the chief inspector reasonably requires for the purposes of section 50 of the Act of 2007.

3. Information required in respect of the person in charge or proposed to be in charge and any other persons participating in or proposed to be participating in the management of the special care unit:

- (a) Proof of identity;
- (b) A vetting disclosure in accordance with the National Vetting Bureau (Children and Vulnerable Persons) Act 2012;
- (c) In so far as is practicable, where the person has lived in a state other than the State for a period of longer than 6 consecutive months, vetting information in respect of the person obtained from the police authorities in that state;
- (d) Two written references, including a reference from a person's most recent employer (if any) in a format specified by the chief inspector;

- (e) Details and documentary evidence of any relevant qualifications or accredited training of the person;
- (f) Relevant current registration status with a professional regulatory body;
- (g) A full employment history, together with a satisfactory history of any gaps in employment; and
- (h) Details of any previous experience of participating in the management of a special care unit or services registered with another regulator or social care sector in Ireland or in another state;
- (i) Where a person has previously worked in a position whose duties involved work with children or vulnerable adults, so far as reasonably practicable, verification of the reason why the employment or position ended;
- (j) Evidence in such form as may be specified in writing by the chief inspector that the person is physically and mentally fit for the purposes of the work that they are to perform at the special care unit; and
- (k) Any other such information as the chief inspector reasonably requires for the purposes of section 50 of the Act of 2007.

SCHEDULE 4

*Regulation 4*MATTERS TO BE CONSIDERED IN FIRE SAFETY POLICY
DOCUMENT

A special care unit's fire safety policy document shall have regard to, but not be limited by, the following:

1. Relevant legislation, including the Building Control Regulations 1997 (S.I. No. 496 of 1997), as amended.
2. Application of the policy document.
3. Fire safety design strategy and review, to include (i) fire safety design strategy, (ii) relevant notes and (iii) all relevant plans & drawings.
4. Compliance reporting.
5. Fire safety management.
6. Fire safety register.
7. Issuing and requirements of a fire safety certificate.
8. Compliance with the policy document.
9. Requirements under relevant building regulations (including, where appropriate, the Building Regulations 1997 (S.I. No. 497 of 1997), as amended), to include (i) purpose groups, (ii) fire safety measures and (iii) guidance common to new build construction and facilities, including means of escape, internal fire spread (linings), internal fire spread (structure), external fire spread and access and facilities for fire fighters.
10. Fire safety during any existing or proposed construction works.
11. Testing, certification and handover of works.
12. Suitability of systems — materials and equipment.
13. Testing.
14. Certification of systems.
15. Certification — opinion on compliance.



GIVEN under my Official Seal,
29 December 2017.

SIMON HARRIS,
Minister for Health.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations, made under Part 13 of the Health Act 2007 (No. 23 of 2007), contain provisions for arrangements for the registration of special care units. These include provisions for the establishment and maintenance of registers of special care units by the chief inspector of social services; applications for the registration or renewal of registration of a special care unit; the issuing of certificates of registration; changes to information supplied for registration purposes; applications for the variation or removal of conditions of registration; the payment of certain fees; and notice to be given of intention to cease to carry on the business of a special care unit.

These Regulations may be cited as the Health Act 2007 (Registration of Designated Centres) (Special Care Units) Regulations 2017.

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