



STATUTORY INSTRUMENTS

S.I. No. 245 of 2009

HEALTH ACT 2007 (REGISTRATION OF DESIGNATED CENTRES
FOR OLDER PEOPLE) REGULATIONS 2009

(Prn. A9/0896)

HEALTH ACT 2007 (REGISTRATION OF DESIGNATED CENTRES
FOR OLDER PEOPLE) REGULATIONS 2009

I, MARY HARNEY, Minister for Health and Children, in exercise of the powers conferred on me by sections 98, 99 and 101 of the Health Act 2007 (No. 23 of 2007) hereby make the following regulations:

1. *Citation and Commencement*

(1) These Regulations may be cited as the Health Act 2007 (Registration of Designated Centres for Older People) Regulations 2009.

(2) These Regulations come into operation on 1 July 2009.

2. *Interpretation*

“the Act” means the Health Act 2007

“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 article 8, by a registered provider from the date specified in Article 8(3) or

(b) under Article 9, by a person carrying on the business of a designated centre for older people in accordance with section 69 of the Act from 1 July 2009 until such time as registration is granted by the chief inspector under section 50 of the Act and the person accordingly becomes the centre’s registered provider;

“the Authority” means the Health Information and Quality Authority;

“certificate of registration” means a certificate issued by the chief inspector on granting an application for the registration or renewal of registration of a designated centre for older people under section 50 of the Act or when complying with an order of the District Court under section 57 of the Act;

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

“date of registration” means the date on which registration of a designated centre for older people by the chief inspector is to take effect;

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 3rd July, 2009.*

“designated centre for older people” means a designated centre to which paragraph (a)(iii) or paragraph (b) of the definition of “designated centre” in section 2 of the Act applies;

“registration fee” means the fee payable to the Authority by a person seeking to register or renew the registration of a designated centre for older people under section 48 of the Act.

3. Registers

(1) The chief inspector shall establish and maintain a separate register for each category of designated centre for older people referred to in these regulations.

(2) In addition to the requirements set out in section 49(1) of the Act, the chief inspector shall enter in a register

- (a) the statement of the maximum number of residents who will be accommodated at the designated centre for older people in accordance with the information provided by the applicant under article 4(3)(h) and
- (b) such other particulars relating to the designated centre for older people deemed relevant by the chief inspector.

(3) When entering the name of a registered provider in accordance with section 49(1)(b) of the Act, the chief inspector shall enter the name of

- (i) the individual, where the registered provider is a natural person
- (ii) all partners, where the registered provider is a partnership
- (iii) all directors, where the registered provider is a company
- (iv) the name of the governing body where the registered provider is a body established under the Health Acts 1947 to 2008 or a body established under the Health (Corporate Bodies) Act 1961 and
- (v) all members of the committee of management or other controlling authority where the registered provider is an unincorporated body.

(4) The chief inspector shall amend a register

- (a) on receiving confirmation under article 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 a decision notified to the registered provider under section 55(1) of the Act

- (i) to vary or remove a condition attached to registration of a designated centre, or
 - (ii) to attach an additional condition to registration of a designated centre or
- (c) when complying with an order by the District Court in accordance with section 57(4) to vary or remove a condition or attach an additional condition.

(5) When the chief inspector receives notice under article 10 from a registered provider of intention to cease to carry on the business of the designated centre for older people and close the centre, the chief inspector shall make a note to that effect in the appropriate register.

(6) The chief inspector shall note the appropriate register where a person has been appointed by or under the law to take charge of a designated centre for older people in place of its registered provider.

(7) When the chief inspector has been notified by a person under section 69 of the Act that the person is carrying on the business of a designated centre for older people, the chief inspector shall note on a register the name and address of the centre and the name and address of the person carrying on the business of the centre.

4. Application for registration or renewal of registration

(1) A person seeking to register a designated centre for older people, including a person carrying on the business of a designated centre for older people in accordance with section 69 of the Act, 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 1.

(2) A person seeking to renew the registration of a designated centre for older people shall make an application for the renewal of registration to the chief inspector in the form determined by the chief inspector and shall include the information set out in Schedule 2.

(3) In addition to the requirements set out in section 48(2) of the Act, an application for the registration or the renewal of registration of a designated centre for older people shall be accompanied by the following:

- (a) full and satisfactory information in regard to the matters set out in Schedule 3 in respect of the person who is the registered provider, or intended registered provider, including
 - (i) an individual, where the registered provider, or intended registered provider, is a natural person
 - (ii) all partners, where the registered provider, or intended registered provider, is a partnership, or

- (iii) all directors, where the registered provider, or intended the registered provider, is a company
 - (iv) a body established under the Health Acts 1947 to 2008 or the Health (Corporate Bodies) Act 1961 where the body is the registered provider or intended registered provider, or
 - (v) all members of the committee of management or other controlling authority where the registered provider, or intended registered provider, is an unincorporated body
- (b) full and satisfactory information in regard to the matters set out in Schedule 3 in respect of the person in charge or to be in charge of the designated centre for older people and any other person who participates or will participate in the management of the designated centre
- (c) evidence that the designated centre complies with the Planning and Development Acts 2000 - 2006 and any building bye-laws that may be in force
- (d) written confirmation from a properly and suitably qualified person with experience in fire safety design and management that all statutory requirements relating to fire safety and building control have been complied with
- (e) a copy of any contracts of insurance taken out in accordance with article 26 of the Health Act 2007 (Care and Welfare of Residents in Designated Centres for Older People) Regulations 2009
- (f) a copy of the written guide produced for residents in accordance with article 21 of the Health Act 2007 (Care and Welfare of Residents in Designated Centres for Older People) Regulations 2009 and an example of any brochure or advertisement used or to be used for the designated centre
- (g) a statement of the maximum number of residents the applicant considers can be accommodated at the designated centre for older people and
- (h) a statement of the maximum number of residents who will be accommodated at the designated centre for older people during the period of registration.
- (4) The fee to accompany an application for the registration or the renewal of registration of a designated centre for older people under section 48 of the Act is €500.
- (5) In accordance with section 48(2)(c) of the Act, an application under this article is not complete unless accompanied by the prescribed fee.

5. *Issuing of certificates and contents of certificates of registration*

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

- (a) the name, address and telephone number of the designated centre for older people
- (b) the name, principal address and principal telephone number of the registered provider
- (c) the name and telephone number of the person in charge of the designated centre for older people
- (d) the name and position of each other person participating in the management of the designated centre for older people
- (e) the maximum numbers of residents who can be accommodated at the designated centre for older people
- (f) the maximum number of residents who will be accommodated at the designated centre for older people in accordance with the information provided by the applicant under article 4(3)(h)
- (g) the date of registration and the expiry date and
- (h) the registration number assigned to the designated centre for older people by the chief inspector.

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

- (a) receiving confirmation under article 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 a decision notified to the registered provider under section 55(1) of the Act
 - (i) to vary or remove a condition attached to registration of a designated centre or
 - (ii) to attach an additional condition to registration of a designated centre, or
- (c) complying with an order by the District Court in accordance with section 57(4) to vary or remove a condition or attach an additional condition.

(3) Where a certificate of registration has been amended by the chief inspector, the registered provider shall return the previous certificate on receipt of the amended certificate.

(4) Where registration of a designated centre is cancelled by the chief inspector, the person whose name had been entered on the certificate as the registered provider in accordance with article 5(1) shall ensure that the certificate is returned to the chief inspector by registered post or by recorded delivery on the day on which the cancellation takes effect.

6. *Changes to information supplied for registration purposes*

(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 designated centre for older people and
- (b) supply full and satisfactory information in regard to the matters set out in Schedule 3 in respect of the new person proposed to be in charge of the designated centre.

(2) Notwithstanding subarticle (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 designated centre for older people has ceased to be in charge and
- (b) supply full and satisfactory information, within 10 days of the appointment of a new person in charge of the designated centre, in regard to the matters set out in Schedule 3.

(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 designated centre (other than the person in charge of the centre) within 28 days of the change and supply full and satisfactory information in regard to the matters set out in Schedule 3 in respect of any new person participating in the management of the designated centre.

(4) The registered provider shall give not less than 8 weeks notice in writing to the chief inspector if any of the following is proposed to take place

- (a) where the registered provider is a body corporate (whether a natural person, 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) where the registered provider is a partnership, there will be any change in the membership of the partnership
- (c) where the registered provider is an unincorporated body, there will be any change to the committee of management or other controlling authority of the body,

and shall supply full and satisfactory information in regard to the matters set out in Schedule 3 in respect of any new person proposed to be registered as a person carrying on the business of the designated centre for older people under (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.

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

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

(2) An application under section 52 of the Act 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
- (b) where the application is for the variation of a condition, the variation sought and the reason or reasons for the proposed variation
- (c) where the application is for the removal of a condition, the reason or reasons for the proposed removal
- (d) changes proposed in relation to the designated centre as a consequence of the variation or removal of a condition including
 - (i) structural changes to the premises that are used as a designated centre
 - (ii) additional staff, facilities or equipment and
 - (iii) changes to the management of the centre

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) A registered provider who wishes to apply for the variation or removal of more than one condition of registration of a designated centre shall make a separate application for the variation or removal of each of the conditions.

(5) The fee to accompany an application in accordance with section 52(3) of the Act for the variation of a condition of registration is

(a) €100 for the minor variation of a condition of registration and

(b) €500 for the major variation of a condition of registration

and the chief inspector shall determine which of the amounts is payable in a particular case.

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

(7) The registered provider shall establish from the chief inspector the fee to accompany an application for the variation of a condition of registration under Article 7(5) before making the application.

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

(9) Fees prescribed under this article are payable to the Authority.

8. Annual fee payable by a registered provider of a designated centre for older people

(1) The annual fee payable by a registered provider is €190 in respect of each resident who will be accommodated in the designated centre for older people in accordance with the statement entered in the register under article 3(2)(a).

(2) Subject to subarticle (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) The first instalment of the annual fee is payable by a registered provider with effect from the date referred to in subarticle (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.

9. Annual fee payable by a person carrying on the business of a designated centre for older people in accordance with section 69 of the Act

(1) Subject to subarticle (4), the annual fee payable by a person carrying on the business of a designated centre for older people and providing residential services in accordance with section 69 of the Act is €190 in respect of each resident accommodated at the designated centre on 1 July 2009 and thereafter the annual fee is €190 in respect of each resident accommodated at the centre 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 designated centre for older people and providing residential services in accordance with section 69 of the Act 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 annual fee payable by a person carrying on the business of a designated centre for older people and providing residential services in accordance with section 69 of the Act in respect of the period 1 July 2009 to 31 December 2009 is payable on a pro rata basis and shall be paid not later than 30 September 2009.

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

10. Notice to be given by a registered provider of a designated centre of intention to cease to carry on its business and close the designated centre

(1) A registered provider of a designated centre for older people shall provide the chief inspector with not less than 6 months notice of intention to cease to carry on the business of the designated centre and close the centre.

11. Payment of Fees

(1) Fees payable in accordance with these Regulations shall be sent in the manner determined by the Authority.

SCHEDULE 1

INFORMATION TO BE SUBMITTED WHEN APPLYING FOR THE
REGISTRATION OF A DESIGNATED CENTRE

Information required

1. Applicant details

- a. If the applicant is a natural person
 - i. Name of applicant.
 - ii. Address of applicant.
 - iii. Contact telephone number and email address of applicant
- b. If the applicant is a partnership
 - i. Name of partnership.
 - ii. Name and address of each partner.
 - iii. Address of the principal place of business of the partnership.
 - iv. Telephone number of the principal place of business of the partnership.
 - v. Name of the partner responsible on behalf of the partnership for the application.
 - vi. Contact telephone number and email address of the partner responsible on behalf of the partnership for the application.
- c. If the applicant is a company
 - i. Name of company.
 - ii. Name of Chairperson.
 - iii. Name of each other director.
 - iv. Name of Secretary, Chief Executive or person in similar overall management position.
 - v. Address of the principal place of business of the company.
 - vi. Telephone number of the principal place of business of the company.
 - vii. Name of the person responsible on behalf of the company for the application and his or her relationship with the company.

- viii. Contact telephone number and email address of person responsible on behalf of the company for the application.
- d. If the applicant is a body established under the Health Acts 1947 to 2008 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 designated centre.
 - ii. Contact telephone number and email address of person responsible on behalf of the body for the application.
- e. If the applicant is an unincorporated body
 - i. Name of each member of the committee of management or other controlling authority of the body
 - ii. Name of the manager of the body

2. Designated Centre Details

- a. Name of the designated centre
- b. Address of the designated centre
- c. Telephone and fax numbers of the designated centre (if available)
- d. Proposed date of establishment
- e. State whether the applicant is the owner or the tenant of the premises at which the business of the designated centre is or will be carried on and, if the applicant is a tenant, state the name and address of the owner of the premises
- f. Category of designated centre
 - i. a designated centre to which paragraph (a)(iii) of the definition of “designated centre” in section 2 of the Act applies
 - ii. a designated centre to which paragraph (b) of the definition of “designated centre” in section 2 of the Act applies.
- g. State whether the designated centre is currently a designated centre carried on in accordance with section 69 of the Health Act 2007.

3. Purpose of Designated Centre

A copy of the statement of purpose compiled in accordance with article 5 of the Health Act 2007 (Care and Welfare of Residents in Designated Centres for Older People) Regulations 2009.

4. Facilities and Services

- a. Description of the premises, including accommodation and whether the premises are purpose-built or have been converted for use as a designated centre.
- b. Statement of services to be provided at the designated centre.
- c. Arrangements for residents to engage in social activities and leisure interests.
- d. The maximum number of residents who, in the opinion of the applicant, can be accommodated at the designated centre.
- e. The maximum number of residents who will be accommodated at the centre.
- f. Summary of the complaints procedures.

5. Management and Staff Details

- a. Name of the person to be in charge of the designated centre and his or her relationship with the registered provider including all partners in a partnership and all members of the managing committee of an unincorporated body.
- b. Arrangements for the management of the designated centre when the person in charge of the centre is absent.
- c. Where the person to be in charge of the centre is, or is proposed to be, in charge of more than one centre, the name of the person who will be responsible for the management of the centre when the person in charge is not present at the centre.
- d. Name of each other person who will participate in the management of the designated centre.
- e. State the number of staff, full time equivalent and the positions they will hold.
- f. State whether the intended registered provider or any staff member will be resident at the designated centre.

SCHEDULE 2

INFORMATION TO BE SUBMITTED WHEN APPLYING FOR THE
RENEWAL OF REGISTRATION OF A DESIGNATED CENTRE

Information required

1. Registered Provider Details

- a. If the registered provider is a natural person
 - i. Name of Registered Provider.
 - ii. Address of Registered Provider.
 - iii. Contact telephone number and email address.
- b. If the registered provider is a partnership
 - i. Name of partnership.
 - ii. Name and address of each partner.
 - iii. Address of the principal place of business of the partnership.
 - iv. Telephone number of the principal place of business of the partnership.
 - v. Name of the partner responsible on behalf of the partnership for the application.
 - vi. Contact telephone number and email address of the partner responsible on behalf of the partnership for the application.
- c. If the registered provider is a company
 - i. Name of company
 - ii. Name of Chairperson.
 - iii. Name of each other director.
 - iv. Name of Secretary, Chief Executive or person in similar overall management position.
 - v. Address of the principal place of business of the company.
 - vi. Telephone number of the principal place of business of the company.
 - vii. Name of the person responsible on behalf of the company for the application and his or her relationship with the company.

- viii. Contact telephone number and email address of person responsible on behalf of the company for the application.
 - d. If the registered provider is a body established under the Health Acts 1947 to 2008 or a body established under 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 designated centre.
 - ii. Contact telephone number and email address of person responsible on behalf of the body for the application.
 - e. If the registered provider is an unincorporated body
 - i. Name of each member of the committee of management or other controlling authority of the body
 - ii. Name of the manager of the body
2. Designated Centre Details
- a. Name of the designated centre.
 - b. Address of the designated centre.
 - c. Telephone and fax numbers of the designated centre.
 - d. Date of establishment of designated centre.
 - e. Date and expiry date of current registration.
 - f. State whether the registered provider is the owner or the tenant of the premises at which the business of the designated centre is being carried on and, if the registered provider is a tenant, state the name and address of the owner of the premises
 - g. Category of designated centre
 - i. a designated centre to which paragraph (a)(iii) of the definition of “designated centre” in section 2 of the Act applies
 - ii. a designated centre to which paragraph (b) of the definition of “designated centre” in section 2 of the Act applies.
3. Purpose of Designated Centre.

A copy of the statement of purpose compiled in accordance with article 5 of the Health Act 2007 (Care and Welfare of Residents in Designated Centres for Older People) Regulations 2009.

4. Facilities and Services

- a. Description of the premises, including accommodation, and whether the premises are purpose-built or have been converted for use as a designated centre.
- b. Statement of services provided at the designated centre.
- c. Arrangements for residents to engage in social activities and leisure interests.
- d. The maximum number of residents who, in the opinion of the applicant, can be accommodated at the designated centre.
- e. The maximum number of residents who will be accommodated at the centre.
- f. Summary of the complaints procedures.

5. Management and Staff Details

- a. Name of the person in charge of the designated centre and his or her relationship with the registered provider including all partners in a partnership and all members of a management committee of an unincorporated body.
- b. Arrangements for the management of the designated centre when the person in charge of the centre is absent.
- c. Where the person to be in charge of the centre is, or is proposed to be, in charge of more than one centre, the name of the person who will be responsible for the management of the centre when the person in charge is not present at the centre.
- d. Name of each other person who is participating in the management of the designated centre.
- e. State the number of full time equivalent staff and the positions they hold.
- f. State whether the registered provider or any staff member is/ will be resident at the designated centre.

SCHEDULE 3

INFORMATION AND DOCUMENTS TO BE PROVIDED IN RESPECT
OF REGISTERED PROVIDERS AND INTENDED REGISTERED
PROVIDERS OF DESIGNATED CENTRES FOR OLDER PEOPLE

Information required in respect of a registered provider or intended registered provider where the registered provider or intended registered provider is a natural person, a partnership, a company or an unincorporated body.

1. Proof of identity
2. Garda vetting report(s).
3. Details of any previous experience of carrying on the business of a designated centre in Ireland or similar residential services outside of Ireland.
4. Any other such information is the chief inspection reasonably requires for the purposes of section 50 of the Act.

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 Health Acts 1947 to 2008 or a body established under the Health (Corporate Bodies) Act 1961.

1. Proof of identity of the person responsible on behalf of the body for the application.
2. Details of any previous experience by the body of carrying on the business of a designated centre
3. Any other such information is the chief inspection reasonably requires for the purposes of section 50 of the Act.

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 a designated centre for older people.

1. Proof of the person's identity, including a recent photograph.
2. A copy of the person's birth certificate.
3. Garda vetting report.
4. Three written references, including a reference from a person's most recent employer (if any) in a format specified by the chief inspector.
5. Details and documentary evidence of any relevant qualifications or accredited training of the person.
6. Relevant current registration status with a professional regulatory body.

7. A full employment history, together with a satisfactory history of any gaps in employment.

8. 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.

9. Evidence that the person is physically and mentally fit for the purposes of the work that they are to perform at the designated centre or, where it is impracticable for the person to obtain such evidence, a declaration signed by the person that they are so fit.



GIVEN under my Official Seal,
30 June 2009

MARY HARNEY.
Minister for Health and Children.

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 designated centres for older people. These include provisions for the establishment and maintenance of registers of designated centres by the chief inspector of social services; applications for the registration or renewal of registration of a designated centre; 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 designated centre.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
nó tríd an bpost ó
FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,
AONAD 20 PÁIRC MIONDÍOLA COIS LOCHA, CLÁR CHLAINNE MHUIRIS,
CONTAE MHAIGH EO,
(Teil: 01 - 6476834 nó 1890 213434; Fax: 094 - 9378964 nó 01 - 6476843)
nó trí aon díoltóir leabhar.

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased directly from the
GOVERNMENT PUBLICATIONS SALE OFFICE
SUN ALLIANCE HOUSE, MOLESWORTH STREET, DUBLIN 2,
or by mail order from
GOVERNMENT PUBLICATIONS, POSTAL TRADE SECTION,
UNIT 20 LAKESIDE RETAIL PARK, CLAREMORRIS, CO. MAYO,
(Tel: 01 - 6476834 or 1890 213434; Fax: 094 - 9378964 or 01 - 6476843)
or through any bookseller.

€4.06

