



STATUTORY INSTRUMENTS.

S.I. No. 634 of 2017



HEALTH ACT 2007 (CARE AND WELFARE OF CHILDREN IN
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 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:

Part 1

Preliminary

Citation

1. These Regulations may be cited as the Health Act 2007 (Care and Welfare of Children in Special Care Units) Regulations 2017.

Commencement

2. These Regulations come into operation on 1 January 2018.

Revocations

3. The Child Care (Special Care) Regulations 2004 (S.I. No. 550 of 2004) are revoked.

Definitions

4. In these Regulations—

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

“Act of 2001” means the Children Act 2001 (No. 24 of 2001);

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

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

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

“Care Record” means a record within the meaning of Regulation 19;

“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;

“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;

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

“guardian” means a person who—

- (a) is the guardian of the child pursuant to the Guardianship of Infants Act 1964 and who—
 - (i) is a parent of the child and has custody of that child, or
 - (ii) not being a parent of the child, has custody of that child to the exclusion of any living parent of that child, or
- (b) is appointed to be a guardian of the child by—
 - (i) deed or will, or
 - (ii) order of a court in the State,

and has not been removed from office;

“guardian *ad litem*” means a person appointed as guardian *ad litem* by a court in accordance with section 26 of the Act of 1991;

“interim special care order” means an order made under section 23L (inserted by section 10 of the Act of 2011) of the Act of 1991;

“parents” has the meaning assigned to it by the Act of 1991;

“person in charge” means the person in charge of a special care unit in accordance with Regulation 13 and such person may be the registered provider of the special care unit or another person;

“record” means any record required to be kept or retained in accordance with Regulation 20;

“restraint” means the intentional restriction of the child’s voluntary movement or behaviour;

“single separation” means the confining of a child, with or without his or her agreement, in a safe and secure area as a means of control and as a response to the assessed extreme and immediate risk being presented by the child to-

- (i) himself or herself or any other person, or
- (ii) property, where the damage to such property could cause a risk of injury to the child or to another person;

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

“special care order” means an order made under section 23H (inserted by section 10 of the Act of 2011) of the Act of 1991;

“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;

“staff member” means a person or persons employed by the registered provider to work at the special care unit, including persons employed from other agencies, 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 employed under a contract for services;

“statement of purpose” means the written statement compiled in accordance with Regulation 5.

Part 2

Special Care Units

Statement of purpose

5. (1) The registered provider shall prepare in writing a statement of purpose relating to the special care unit concerned which shall contain the information set out in Schedule 1.

(2) The registered provider shall review and revise the statement of purpose at intervals of not less than one year.

(3) The registered provider shall notify the chief inspector in writing before changes are made to the statement of purpose which affect the purpose of the special care unit.

(4) The registered provider shall put in place appropriate procedures to ensure that the person in charge is provided with a copy of the statement of purpose, if such person is not the registered provider.

(5) The registered provider shall put in place appropriate procedures to ensure that a child detained in the special care unit is provided with a copy of the statement of purpose in a format which shall be age appropriate to ensure the child’s understanding of it.

(6) The registered provider shall put in place procedures to ensure that the parents or guardian(s) of a child placed in a special care unit are provided with a copy of the statement of purpose.

Care practices, operational policies and procedures

6. (1) The registered provider shall promote and protect the life, health, safety, development and welfare of each child who is detained in the special care unit.

(2) The registered provider shall ensure that the special care unit has care practices, operational policies and procedures in place in accordance with best practice and paragraph (1) having regard to the number of children detained in the special care unit and the nature of their needs, which practices, policies and

procedures shall include, but shall not be limited to, the matters set out in Schedule 2 and the obligations of the person in charge under these Regulations.

(3) The care practices, operational policies and procedures referred to in paragraph (2) shall be set out in writing by the registered provider.

(4) The registered provider shall ensure that the care practices, operational policies and procedures referred to in paragraph (2) are implemented by the person in charge having regard to the particular needs of each child.

(5) The registered provider shall ensure that all written care practices, operational policies and procedures are reviewed and updated—

(a) in accordance with best practice,

(b) when required by the chief inspector,

(c) at least every three years, and

(d) when, in accordance with Regulation (5), there has been a change in the statement of purpose.

and such reviews shall have due regard to any recommendations made by the chief inspector.

(6) The care practices, operational policies and procedures referred to in paragraph (2) shall take account of any guidelines issued by the Child and Family Agency in accordance with the Act of 2011 and any standards relating to a special care unit prepared by the Health Information and Quality Authority in accordance with section 8(1)(b) of the Act of 2007.

(7) The registered provider shall ensure that there are appropriate procedures put in place by the person in charge to ensure that a child detained in the special care unit is made aware of the care practices, operational policies and practices of the special care unit and that information provided in accordance with this Regulation is accessible and age appropriate to ensure understanding.

(8) The person in charge shall implement the care practices, operational policies and procedures required to be put in place by the registered provider under paragraph (2) and shall, in so doing, promote and protect the life, health, safety, development and welfare of each child who is detained in the special care unit.

Programme of Care

7. (1) Where a child is to be detained in a special care unit, the person in charge shall consult with the social worker assigned responsibility for the child by the Child and Family Agency to inform himself or herself of the special care to be provided to the child while the child is detained in the special care unit.

(2) Following consultation with the social worker assigned responsibility for the child by the Child and Family Agency, the person in charge shall oversee,

in conjunction with the social worker so assigned, the implementation of a programme of special care for the child, in accordance with the interim special care order or special care order relating to the child.

(3) The programme of special care referred to in paragraph (2) may contain, but is not to be limited to, details of all required interventions in relation to that child and in accordance with the child's—

- (a) care plan,
- (b) placement plan,
- (c) placement support plan,
- (d) education plan,
- (e) therapeutic plan, and
- (f) psychiatric treatment and intervention plan.

(4) The person in charge shall keep the programme of special care prepared in accordance with paragraph (2) as part of the child's Care Record.

Health care

8. (1) The registered provider shall ensure that adequate arrangements are in place for access by a child detained in the special care unit to a health screening assessment, general practitioner and psychological services and for the child's referral to medical, psychiatric, dental, ophthalmic or other specialist services to meet the child's requirements.

(2) The person in charge shall include in the child's Care Record details of—

- (a) any referrals made or services provided under paragraph (1), and
- (b) any medication administered, whether or not it was prescribed by a registered medical practitioner, to a child detained in the special care unit.

(3) The person in charge shall ensure that, where a pharmacist provides a record of medication related interventions in respect of a child detained in the special care unit, such record shall be kept in a safe and accessible place in the special care unit.

(4) The person in charge shall ensure that all medicinal products dispensed or supplied to a child detained in the special care unit are stored securely at the special care unit.

(5) The person in charge shall ensure that all medicinal products are administered in accordance with the directions of the prescriber to the child concerned and in accordance with any advice provided by the medical professional regarding the appropriate use of the product.

(6) The person in charge shall ensure that a medicinal product which is out of date or has been dispensed to a child detained in the special care unit but is no longer required by that child, shall be stored in a secure manner, segregated from other medicinal products and disposed of in accordance with national legislation or guidance.

Education, individual needs, religion, ethnicity, culture and language

9. (1) The registered provider shall ensure that—

(a) adequate arrangements are in place for access by each child detained in the special care unit to educational facilities, educational supports and services appropriate to the assessed needs for that child, and

(b) children approaching school leaving age are supported, in conjunction with their social worker and in accordance with their programme of care or aftercare plan, to achieve their training and educational potential as appropriate to their preferences and abilities in so far as is practicable and reasonable.

(2) The person in charge shall retain a record of the educational progress of a child detained in the special care unit as part of the child's Care Record.

(3) The registered provider shall have regard to the individual needs, ethnic and cultural identity of the child in providing special care to him or her and that of his or her parents or guardian and the language (including sign language) mainly spoken by the child and his or her parents or guardian.

(4) The registered provider shall ensure that a child detained in the special care unit is facilitated, in so far as is reasonably practicable, in the practice of his or her religion, and the person in charge shall retain a record of the manner in which such practice is facilitated and shall keep such record as part of the child's Care Record.

(5) The registered provider shall ensure that each child, in accordance with his or her wishes—

(a) participates in and contributes to decisions about his or her care and support,

(b) can exercise appropriate choice and control in his or her daily life,

(c) can exercise his or her civil and legal rights, and

(d) has access to advocacy services and information about his or her rights.

(6) The registered provider shall ensure that each child's privacy and dignity is respected, including but not limited to, his or her personal and living space, personal communications, professional consultations and personal information.

(7) The registered provider shall ensure that each child has appropriate access to a telephone and appropriate media, such as television, newspapers and internet, if available, in accordance with the relevant policies set out in Schedule 2.

(8) The registered provider shall ensure that each child—

(a) has, in so far as is reasonably practicable, opportunities to participate in activities in accordance with his or her interests and developmental needs, and

(b) has opportunities to develop life skills to help prepare for adulthood.

(9) The registered provider shall ensure that children are prepared for leaving care, where appropriate, in accordance with the child's care plan or aftercare plan as the case may be.

Family contact and visiting arrangements

10. (1) The registered provider shall ensure that appropriate arrangements are in place to facilitate access to, visiting of, and contact with the child detained in the special care unit in accordance with the interim special care order or the special care order.

(2) The registered provider shall ensure that the special care unit provides appropriate facilities to enable visits to be held in private, as appropriate, and in accordance with paragraph (1).

(3) The person in charge shall manage all contacts and visits to the child in accordance with any direction issued by the court, the interim special care order or the special care order and shall retain a record in the child's Care Record of all contacts and visits to the child.

Positive behavioural support (including restraint and single separation)

11. (1) The registered provider shall ensure that the care practices, operational policies and procedures, developed in accordance with Regulation 6 and relating to positive behavioural support shall—

(a) prohibit corporal punishment or any other form of physical aggression,

(b) prohibit deprivation of food or drink,

(c) prohibit treatment that could reasonably be expected to be detrimental to physical, psychological or emotional well-being,

(d) prohibit treatment that is cruel, inhumane or degrading,

(e) provide that restraint may only be used on a child detained in a special care unit where the risks of not restraining the child are greater than the risks of restraining him or her and only for the purpose of—

(i) preventing injury to the child or any other person, or

- (ii) preventing serious damage to property where the damage to such property could cause risk of injury to the child or any other person, and
- (f) provide in respect of the use of single separation that, unless and for so long as it is necessary to protect the child or any other person from risk of injury, or to protect property from serious damage, a child shall not be—
- (i) confined on his or her own in any room or area in the special care unit, other than his or her usual bedroom during usual bedtime hours, or
 - (ii) deliberately separated from other children detained in the special care unit, with a view to preventing contact with the other children.
- (2) The registered provider shall ensure that where restrictive procedures including restraint or single separation are used, they are only carried out in accordance with relevant national policy and methods recognised and approved by the Child and Family Agency and, at all times, having due regard to the care and welfare of the child concerned.
- (3) The person in charge shall ensure that staff members in the special care unit have up to date knowledge and skills, appropriate to their role, to respond to behaviour that is challenging and to support a child detained in the special care unit to manage his or her behaviour.
- (4) The registered provider shall ensure that each person employed in the special care unit has up to date knowledge and skills to—
- (a) identify underlying causes of behaviour, and
 - (b) assist and support a child to manage his or her behaviour.
- (5) The person in charge shall ensure that—
- (a) every effort is made to identify and alleviate the cause of the child's behaviour,
 - (b) all alternative procedures are considered before a restrictive procedure is used, and
 - (c) the least restrictive procedure for the shortest duration necessary is used.
- (6) The person in charge shall ensure that staff members in the special care unit receive training in the management of behaviour that is challenging including the use of restraint, single separation and de-escalation techniques, and that only approved techniques are used, in accordance, where applicable, with the child's individual crisis management plan.

(7) The person in charge shall retain a record of any instructions made in relation to behavioural supports provided to a child in accordance with this Regulation, the reasons why such instructions were made and the nature and duration of any action taken or sanction imposed on a child, and shall include such record in the child's Care Record.

Protection

12. (1) The registered provider shall ensure that each child placed in the special care unit is assisted and supported to develop the knowledge, self-awareness, understanding and skills needed for self-care and protection.

(2) The registered provider shall protect all children placed in the special care unit from all forms of abuse.

(3) The registered provider shall ensure that, where there has been an incident, allegation or suspicion of abuse or neglect in relation to a child, the requirements of national guidance for the protection and welfare of children and all relevant statutory obligations are complied with.

(4) The person in charge shall initiate and put in place an investigation in relation to any incident, allegation or suspicion of abuse and take appropriate action where a child is harmed or suffers abuse while in the care of the special care unit.

(5) The person in charge shall ensure that all staff members receive training in relation to safeguarding children and in the prevention, detection and response to abuse.

(6) The person in charge shall ensure that parents and guardians are informed of any incident, allegation, suspicion or investigation of abuse or neglect in accordance with the communications policy set out in Schedule 2.

(7) The person in charge shall ensure that any incident, allegation, suspicion or investigation of abuse or neglect in relation to a child is recorded in the child's Care Record.

Part 3

Persons working in a special care unit

Person in charge

13. (1) The registered provider shall appoint a person in charge of a special care unit.

(2) A person may be appointed as a person in charge of more than one special care unit if the chief inspector is satisfied that he or she is engaged in the effective governance, operational management and administration of the special care units concerned.

(3) The post of the person in charge shall be full time and the registered provider shall ensure that the person in charge has the qualifications, skills and

experience necessary to manage the special care unit, having regard to the size of the special care unit, the statement of purpose, and the number and needs of the children detained in the special care unit.

(4) Notwithstanding paragraph (3), the registered provider shall ensure that the person in charge has, on or after the day which is 3 years after these Regulations come into operation—

- (a) a minimum of 3 years' experience in a management or supervisory role in the area of health or social care, and
- (b) an appropriate qualification in the management of health or social care services.

(5) The registered provider shall ensure that he or she has obtained, in respect of the person in charge, the information and documents specified in Part A of Schedule 3.

Staff members and others working in the special care unit

14. (1) The registered provider shall ensure that the number, qualifications, experience, suitability and availability of staff members in the special care unit is appropriate, having regard to the number and assessed need of children detained in the special care unit, the statement of purpose and the size and layout of the special care unit.

(2) The registered provider shall ensure that the children receive continuity of care and support, particularly in circumstances where staff are employed on a less than full time basis.

(3) A person shall not be employed in a special care unit, or work in the unit as an intern, a trainee or a person on a placement as part of a vocational training course, unless and until the registered provider—

- (a) is satisfied that the person is suitable to work in the special care unit, and
- (b) has obtained, in respect of that person, the records and documents specified in Part A of Schedule 3.

(4) The registered provider shall ensure that there are appropriate numbers of staff members present in the special care unit at all times to supervise each child detained in the special care unit in accordance with the requirements of registration of the special care unit.

(5) The person in charge shall ensure that an appropriate level of professional supervision and support is provided to staff members in the special care unit.

(6) The person in charge shall ensure that each person working in the special care unit as an intern, a trainee or a person on a placement as part of a vocational training course is supernumerary and is not considered or included by the person in charge when ensuring that—

- (a) there are appropriate numbers of staff members present in the special care unit to supervise each child detained in the special care unit in accordance with paragraph (4), and
- (b) there is an adequate number of persons employed in the special care unit in accordance with paragraph (1).

(7) The person in charge may, from time to time, delegate all or some of his or her duties under these Regulations to one or more appropriately qualified staff members in the special care unit and shall keep a written report of when and to whom he or she has delegated those duties.

(8) The registered provider shall maintain, as appropriate, the records specified in Part B of Schedule 3, in relation to each staff member in the special care unit and each person working as an intern, a trainee or a person on a placement as part of a vocational training course.

Training and staff development

15. (1) The person in charge shall ensure that each staff member in the special care unit and each person working as an intern, a trainee or a person on a placement as part of a vocational training course—

- (a) has access to appropriate training, including refresher training, as part of a continuous professional development programme to enable the staff member to provide care in accordance with evidence based practice, the statement of purpose and policies and procedures, and
- (b) is informed of the provisions of Acts of the Oireachtas and all regulations, standards and guidelines made thereunder, or otherwise, dealing with the care, welfare and protection of children detained in a special care unit.

(2) The person in charge shall ensure that copies of the Acts, regulations, standards and guidelines referred to in paragraph (1)(b) are available to all staff members in the special care unit, and to all persons working in the unit as an intern, trainee or a person on a placement as part of a vocational training course.

(3) The person in charge shall keep a record of any professional development courses or training undertaken by persons employed in the special care unit.

Staff supervision and support

16. The person in charge shall ensure that an appropriate level of professional supervision and support is provided to staff members in the special care unit.

Part 4

Accommodation provided in a special care unit

Accommodation

17. The registered provider shall provide adequate and suitable accommodation, as set out in Schedule 4, having regard to the number of children detained in the special care unit and the nature of the needs of each child.

Part 5

Food and nutrition

Food, nutrition and cooking facilities

18. (1) The person in charge shall ensure that a child detained in the special care unit—

- (a) has access to a safe supply of fresh drinking water at all times, and
- (b) is provided with food and liquids in quantities adequate for his or her needs, which are properly and safely prepared, are wholesome and nutritious, involve an element of choice and take account of any special dietary requirements.

(2) The person in charge shall provide meals, refreshments and snacks at all reasonable times.

(3) For the purposes of this article, the registered provider shall ensure that in the special care unit—

- (a) suitable and sufficient cooking facilities, kitchen equipment and tableware are provided,
- (b) there are proper facilities for the refrigeration, storage, preparation, cooking and serving of food, and
- (c) a high standard of hygiene is maintained in relation to the storage and preparation of food and the disposal of refuse.

Part 6

Information and Records

Care Record

19. (1) The person in charge shall establish and maintain a Care Record in respect of each child detained in the special care unit.

(2) The Care Record referred to in paragraph (1) shall include the information set out in Schedule 5.

(3) Where a child is discharged from the special care unit or where a child is to be transferred to another special care unit, the person in charge shall, within

14 days, ensure that the child's original Care Record is forwarded to the designated social work department of the Child and Family Agency.

Maintenance of records

20. (1) The person in charge shall ensure that the records listed in Schedule 6, in relation to the special care unit, are maintained.

(2) The registered provider shall ensure that a record or document provided for under these Regulations is kept in the special care unit and is available for inspection by the chief inspector.

(3) All records shall be kept in such a manner as to be secure, safe and accessible.

(4) A record kept in accordance with this Regulation, other than the record referred to in paragraph 3 of Schedule 6, shall be retained in perpetuity.

(5) Where the Child and Family Agency is not the registered provider and where it is proposed to cease the operation of a special care unit, the registered provider shall make arrangements to transfer its records to the Child and Family Agency and such records shall be maintained by the Child and Family Agency as if the Child and Family Agency were the registered provider.

Register of children detained in the special care unit

21. (1) The registered provider shall establish and keep a register in which shall be entered particulars in relation to each child detained in the special care unit.

(2) Without prejudice to the generality of paragraph (1), an entry in the register provided for in that paragraph, with respect to a child detained in a special care unit, shall include the following:

- (a) the name, sex and date of birth of the child;
- (b) the name(s), address(es) and telephone numbers of the parent(s) or guardian(s) of the child;
- (c) the High Court record number of the interim special care order or the special care order made in respect of the child;
- (d) the date on which the child was detained in the special care unit;
- (e) the date on which the child was released, transferred, discharged or absconded from the special care unit, as arises;
- (f) the name and contact details of the social worker assigned responsibility for the child by the Child and Family Agency; and
- (g) the name and contact details of the guardian *ad litem*, where appropriate.

(3) Every change in the particulars entered in the register provided for in paragraph (1) with respect to a child shall be recorded in the register.

Record of a person employed in the special care unit

22. The person in charge shall maintain the records set out in Part B of Schedule 3 in a secure, safe and accessible place, for each staff member employed in the special care unit.

Part 7

The effecting of contracts of insurance by the registered provider of a special care unit

Insurance

23. (1) The registered provider shall effect a contract of insurance against injury to a child detained in the special care unit.

(2) The provider of any professional or other service to a special care unit shall satisfy the registered provider concerned that he or she is adequately insured against the risk of injury to a child detained in the unit and, where appropriate, that he or she maintains a minimum level of professional indemnity insurance as required by his or her professional body.

(3) The registered provider shall ensure that the contract of insurance required under paragraph (1) is made available, on request, to the chief inspector.

Part 8

Management and control of operations of a special care unit

Governance and management

24. (1) The registered provider shall ensure that—

- (a) the special care unit has sufficient resources to ensure the effective delivery of special care in accordance with the statement of purpose,
- (b) there is a clearly defined management structure in the special care unit that identifies the lines of authority and accountability, specifies roles, and details responsibilities for areas of special care provision,
- (c) management systems are in place to ensure that the service provided is safe, appropriate to the child's needs, consistent and effectively monitored,
- (d) there is an annual review to assess the quality and safety of special care provided in the special care unit and to confirm that such special care is in accordance with national standards, the interim special care orders or the special care orders generally, and the child's programme of special care, and

(e) a copy of the review referred to in subparagraph (d) is made available, on request, to the chief inspector.

(2) The registered provider shall ensure that effective arrangements are in place to facilitate persons employed in the special care unit to raise concerns about the quality and safety of the special care provided generally or the special care provided to any specific child detained in the special care unit.

(3) The registered provider, or a person nominated by the registered provider, shall carry out an unannounced visit to the special care unit at least once every six months, or more frequently as determined by the chief inspector, and shall—

(a) prepare a written report on the safety and quality of care and support provided in the centre and put a plan in place to address any concerns regarding the standard of care, and

(b) maintain a copy of the report prepared under subparagraph (a) and make it available on request to children placed in the special care unit, and their parents or guardians, and the chief inspector.

Risk management

25. (1) The registered provider shall ensure that the special care unit has a risk management policy in place and that it is implemented throughout the special care unit.

(2) The registered provider shall ensure that the risk management policy includes the following:

(a) the ongoing identification, assessment, management and review of risks throughout the special care unit,

(b) the measures and actions in place to control the risks identified,

(c) the measures and actions in place to control the following risks to a child—

(i) child abuse,

(ii) situations where a child may be removed or absconds from the special care unit,

(iii) accidental injury to a child,

(iv) aggression and violence from or towards a child, and

(v) self-harm,

(d) arrangements for the identification, recording, investigation and learning from incidents involving children detained in the special care unit,

- (e) accidental injury to a staff member, an intern, a trainee or a person on a placement as part of a vocational training course in the special care unit, and
 - (f) aggression and violence towards a staff member, an intern, a trainee or a person on a placement as part of a vocational training course in the special care unit.
- (3) The registered provider shall ensure that there is a plan in place for responding to—
- (a) interruption to services,
 - (b) damage to property,
 - (c) incidents likely to cause death or injury, and
 - (d) emergency situations.
- (4) The registered provider shall take all reasonable measures to prevent accidents in the special care unit and in the grounds of the special care unit.
- (5) The registered provider shall ensure that adequate arrangements exist in the special care unit to guard against the risk of injury occurring on the premises, particularly with regard to the structure and fabric of the special care unit including stairways, electrical and gas appliances and fittings, windows and doors, glazing and the storage of medicines, cleaning and other potentially dangerous materials.
- (6) The registered provider shall ensure that adequate arrangements are in place for the reporting of an accidental injury occurring in a special care unit to a child, a staff member, an intern, a trainee, a person on a placement as part of a vocational training course or to a visitor.
- (7) The registered provider shall ensure that all vehicles used to transport children and staff members, where they are provided by the registered provider, are roadworthy, regularly serviced, insured and driven by persons who are legally licensed to drive the vehicle.
- (8) The person in charge shall keep a report of an accident or an injury to a child detained in the special care unit in the child's Care Record.

Fire precautions

26. (1) The registered provider shall—
- (a) take adequate precautions against the risk of fire,
 - (b) provide suitable fire fighting equipment, building services and bedding and furnishings,
 - (b) provide adequate means of escape, including emergency lighting,

- (c) make adequate arrangements for—
 - (i) preventing fire,
 - (ii) detecting, containing and extinguishing fires,
 - (iii) giving warning of fires,
 - (iv) calling the fire service,
 - (v) evacuation, where necessary in the event of fire, of all persons in the special care unit and safe placement of children detained in the special care unit,
 - (vi) maintaining of all fire equipment, means of escape, building fabric and building services, and
 - (vii) reviewing fire precautions, and testing fire equipment, at suitable intervals,
 - (d) make arrangements for staff members, interns, trainees and persons on placements as part of vocational training courses at the special care unit to receive suitable training in fire prevention, emergency procedures, building layout and escape routes, location of fire alarm call points and first aid, fire fighting equipment, fire control techniques and the procedures to be followed should the clothes of a child detained in the special care unit catch fire, and arrangements for the evacuation of children detained in the special care unit, calling the fire service and for assisting the fire brigade, and
 - (e) ensure, by means of fire safety management and fire drills at suitable intervals, that staff members, interns, trainees, persons on placements as part of vocational training courses at the special care unit and, in so far as is reasonably practicable, children detained in the special care unit, are aware of the procedure to be followed in the case of fire, including the procedure for saving life.
- (2) The person in charge shall ensure that the procedures to be followed in the event of fire are displayed in a prominent place or places in the special care unit.

Part 9

Notification of incidents occurring in a special care unit

Notification of incidents

27. (1) The person in charge shall give the chief inspector notice in writing within three working days of the following incidents occurring in a special care unit—

- (a) the death of a child, including the death of a child following his or her transfer to hospital from the special care unit, and the circumstances and cause of death when established,
- (b) an outbreak of any notifiable disease,
- (c) any serious injury to a child requiring immediate medical treatment,
- (d) an allegation of child abuse,
- (e) where a child is removed, absconds, fails to return, is prevented from returning, is missing or is otherwise absent from the special care unit,
- (f) a fire,
- (g) an unplanned evacuation,
- (h) an allegation of misconduct of the registered provider or a staff member or a person working as an intern, a trainee, a person on a placement as part of a vocational training course or a person employed under a contract for services, and
- (i) a staff member is the subject of review by a professional body.

(2) Where an incident referred to in paragraph (1) relates to a child the person in charge shall retain a record of that incident as part of the child's Care Record.

(3) The person in charge shall ensure that a written report is provided to the chief inspector at the end of each quarter in relation to—

- (a) any instance of restraint,
- (b) any instance of single separation,
- (c) any loss of power, heating or water,
- (d) any occasion on which the fire equipment is operated other than for the purpose of fire practice, drill or test of equipment,
- (e) any injury to a child not required to be notified under paragraph (1)(c), and
- (f) other such matters of importance and concern as the chief inspector may require.

(4) The person in charge shall keep a record of incidents notified to the chief inspector in accordance with paragraph (1) and any report made to the chief inspector in accordance with paragraph (3).

(5) The registered provider shall give the chief inspector notice in writing within three working days of any investigation regarding the alleged misconduct of the person in charge.

(6) The person in charge shall, as soon as is possible, notify the social worker assigned responsibility for a child by the Child and Family Agency where any of the following incidents occur in a special care unit, in relation to that child:

- (a) the death of the child, including the death of a child following his or her transfer to hospital from the special care unit, and the circumstances and cause of death when established,
- (b) any serious injury to the child requiring immediate medical treatment,
- (c) an allegation of abuse of the child,
- (d) where the child is removed, absconds, fails to return, is prevented from returning, is missing or is otherwise absent from the special care unit,
- (e) any occasion on which the fire equipment is operated other than for the purpose of fire practice, drill or test of equipment,
- (f) any instance of restraint of the child,
- (g) any instance of single separation of the child, and
- (h) any injury to the child not required to be notified under paragraph (1)(c).

Part 10

Notification of procedures, arrangements and periods when the person in charge is absent from the special care unit

Notification of procedures, arrangements and periods when the person in charge is absent from the special care unit

28. (1) Where the person in charge proposes to be absent from the special care unit for a continuous period of 28 days or more, the registered provider shall give notice in writing to the chief inspector of the proposed absence.

(2) Except in the case of an emergency, the notice referred to in paragraph (1) shall be given no later than one month before the proposed absence commences or within such shorter period as may be agreed with the chief inspector and the notice shall specify—

- (a) the length or expected length of the absence, and
- (b) the date of leaving and date of expected return.

(3) Where the person in charge is absent as the result of an emergency, the registered provider shall, as soon as it becomes apparent that the absence concerned shall be for a period of 28 days or more, give notice of the absence in writing to the chief inspector specifying the matters mentioned in paragraph (2).

(4) Where the registered provider gives notice of the absence of the person in charge from the special care unit under paragraph (1) or (3), he or she shall give notice in writing to the chief inspector of the procedures and arrangements that shall be in place for the management of the special care unit during the absence.

(5) The notice referred to in paragraph (4) shall specify—

- (a) the arrangements which have been or which are proposed to be made for the running of the special care unit during the absence;
- (b) the arrangements that have been, or are proposed to be, made for appointing another person in charge to manage the special care unit during the absence, including the proposed date by which the appointment is to be made; and
- (c) the name, contact details and qualifications of the person who is or shall be in charge of the special care unit during the absence.

(6) The registered provider shall notify the chief inspector of the return to duty of the person in charge not later than three working days after the date of his or her return.

Part 11

Complaints Procedures

Complaints procedures

29. (1) The registered provider shall provide a complaints procedure, which includes an appeals procedure, for the investigation of complaints made by a child detained in the special care unit, in a format which shall be age appropriate to ensure a child's understanding of it.

(2) The registered provider shall ensure that—

- (a) each child detained in the special care unit and his or her parents or guardians are made aware of the complaints procedure prepared in accordance with paragraph (1),
- (b) a copy of the complaints procedure is displayed in a prominent position in the special care unit, and
- (c) all complaints are investigated promptly and the child, his or her parents or guardians and his or her assigned social worker are informed promptly of the outcome of his or her complaint and the details of the appeals process.

(3) The registered provider shall ensure that the person in charge maintains a record of all complaints, including, in accordance with paragraph 8 of Schedule 6, details of the investigation and resolution of the complaints.

(4) The person in charge shall keep the record made under paragraph (3) in the Care Record of each child concerned.

SCHEDULE 1*Regulation 5***INFORMATION TO BE INCLUDED IN THE STATEMENT OF
PURPOSE****Registration details**

1. The information as set out on the certificate of registration of the special care unit granted under section 50(3) of the Act of 2007.

Services and facilities provided in the special care unit

2. A statement as to—
 - (a) the aims, objectives and ethos of the special care unit,
 - (b) the care and support needs of the children that the special care unit intends to meet,
 - (c) the services which are to be provided by the registered provider, and
 - (d) the facilities which are to be provided by the registered provider.
3. The special care unit's policy and procedures when admitting a child to the special care unit, including criteria for planned and emergency admissions, where relevant.
4. The number, purpose and size of rooms in the special care unit.
5. The number and gender of children for whom it is intended that accommodation will be provided.

Management and staff in the special care unit

6. The number of staff members in the special care unit, in whole time equivalents, given by position and by grade.
7. The current professional registration (if relevant), relevant qualifications and experience of the registered provider and the person in charge.
8. The organisational structure of the special care unit.

Child's well-being and safety

9. The arrangements made for reviewing the care of a child detained in the special care unit, with due regard to the interim special care order or the special care order, the child's programme of care and relevant plans as the case may be.
10. The arrangements made for the education or training of a child detained in the special care unit.

11. The arrangements for a child detained in the special care unit to engage in social activities, hobbies and leisure interests.
12. The arrangements made for respecting the privacy and dignity of the children living in the centre.
13. The arrangements made to facilitate family contact between children and family members, friends, social workers and advocates, where appropriate.
14. The arrangements made for the consultation with, and participation of, the children in the operation of the special care unit.
15. The arrangements made for the children to attend religious services of their choice.
16. The arrangements for dealing with complaints.
17. The fire precautions and associated emergency procedures in the event of a fire or where a fire alarm is triggered in the special care unit.

SCHEDULE 2*Regulations 6, 9 and 12***POLICIES AND PROCEDURES TO BE MAINTAINED IN A SPECIAL CARE UNIT**

The registered provider shall ensure that the special care unit has written operational policies and procedures on all of the paragraphs set out in this Schedule.

1. Admissions.
2. Maintaining children's dignity and privacy.
3. Safeguarding of a child which addresses—
 - (a) protection of a child from child abuse,
 - (b) training of a person employed in the special care unit regarding the detection and prevention of and responses to child abuse,
 - (c) reporting of child abuse and concerns of child abuse, and
 - (d) supporting a child's development of personal safety skills.
4. Communication.
5. Provision of information to a child detained in the special care unit.
6. Positive behavioural support (including restraint and single separation).
7. Where a child absconds, is missing or is otherwise absent, is removed without authority, fails to or is prevented from returning to the special care unit.
8. Risk management.
9. The handling and investigation of complaints from a child detained in the special care unit.
10. The ordering, storing and administration of medicines to a child detained in the special care unit.
11. The creation of, access to, retention of and destruction of records.
12. Recreational programmes for children.
13. The transfer and discharge of a child detained in the special care unit.
14. Health and safety of a child detained in, a person employed in, an intern in, a trainee in, a person on a placement as part of a vocational training course in and any visitor to the special care unit.
15. Food safety.

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16. The personal property and possessions of a child detained in the special care unit.
17. Emergencies.
18. Recruitment, selection and vetting of a person employed, an intern, a trainee or a person on placement as part of a vocational training course in the special care unit.
19. Training and development of a person employed in the special care unit.
20. CCTV (in units where CCTV systems are in use).

SCHEDULE 3*Regulations 13, 14 and 22***DOCUMENTS TO BE HELD IN RESPECT OF THE PERSON IN CHARGE AND EACH PERSON EMPLOYED OR WORKING AS AN INTERN, A TRAINEE, OR ON PLACEMENT AS PART OF A VOCATIONAL TRAINING COURSE***Part A*

1. A record of the person's full name, address, up to date contact details (e.g. phone number(s), e-mail address) and date of birth.
2. Evidence of the person's identity, including a recent photograph.
3. A record of the dates the person commenced, the position held, whether the person was employed on a full or part-time basis, and, where relevant, ceased employment.
4. A vetting disclosure in accordance with the National Vetting Bureau (Children and Vulnerable Persons) Act 2012.
5. 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.
6. Two written references, including a reference from the person's most recent employer (if any) in a format specified by the chief inspector.
7. Details and documentary evidence of any relevant qualifications or accredited training of the person.
8. Relevant current registration status with a professional regulatory body.
9. Full employment history, together with a satisfactory history of any gaps in employment.
10. Details of previous experience (if any) of participating in the management of a special care unit or services registered with another regulator or social care sector in the State or in another state.
11. Where a person has previously worked in a position the duties of which involved work with children or vulnerable adults, so far as reasonably practicable, verification of the reason why the employment or position ended.
12. A record of any confirmed finding against a person in the special care unit in relation to child abuse, or misconduct within the terms of the person's contract of employment or following a review by a professional body.

13. 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.
14. Any other such information as the chief inspector reasonably requires.

Part B

1. A record of the full name, date of birth, details of position held, dates of employment, the work the person performs and the number of hours the person is employed each week, for each staff member.
2. (a) A record of the operational weekly roster, covering 24 hour periods, that was actually worked by a staff member in the special care centre;

or,

(b) A record of the times and dates that a person worked as an intern, trainee, a student or was on a placement as part of a vocational training course at the special care unit.
3. A record of any confirmed finding against a staff member in relation to child abuse, or misconduct within the terms of the person's contract of employment or following a review by a professional body.
4. A record of when and to whom the person in charge delegates to one or more appropriately qualified staff members in the special care unit, all or some of his or her duties.
5. A record of attendance by a staff member in the special care unit at continuing professional development and training courses.

SCHEDULE 4

Regulation 17

ACCOMMODATION PROVIDED IN A SPECIAL CARE UNIT

The registered provider shall, in particular, ensure that-

- (a) each child is provided with his or her own bedroom,
- (b) children are provided with adequate communal space,
- (c) adequate and suitable furnishings are provided throughout the special care unit,
- (d) a sufficient number of toilets are available,
- (e) a sufficient number of wash basins, baths and showers are available, ensure privacy, and are supplied with hot and cold running water,
- (f) adequate laundry and storage facilities are available,
- (g) the premises are adequately lit, heated and ventilated,
- (h) the premises are clean, appropriately decorated and maintained in good structural condition, and
- (i) adequate indoor and outdoor recreational facilities are available which are safe for use and appropriately maintained.

SCHEDULE 5

Regulation 19

INFORMATION AND RECORDS TO BE INCLUDED IN THE CARE RECORD OF A CHILD DETAINED IN THE SPECIAL CARE UNIT

1. The person in charge shall include the following information, where relevant, in the Care Record of a child detained in the special care unit—
 - (a) the child's name, sex, date of birth,
 - (b) date of admission,
 - (c) a recent photograph of the child,
 - (d) the religion of the child,
 - (e) a copy of the interim special care order or the special care order made in respect of the child,
 - (f) the name(s) and address(es) of the parent(s) or guardian(s) of the child,
 - (g) the name and address of any guardian *ad litem* or any legal representative of the child or any other person who, in the opinion of the Child and Family Agency, has a *bona fide* interest in the child,
 - (h) the name, address and contact details of the social worker assigned responsibility for the child,
 - (i) the name, address and contact details of the probation and welfare officer if assigned, to the child,
 - (j) any other information considered necessary to assist the special care unit in promoting and protecting the life, health, safety, development, and welfare of the child,
 - (k) any services provided for the child in the special care unit,
 - (l) the child's care and any treatment while he or she is detained in the special care unit,
 - (m) any visits to the child,
 - (n) a copy of any report prepared in the special care unit and submitted to the Child and Family Agency,
 - (o) records maintained in accordance with articles 7(2) (Care practices, operational policies and procedures), 8(2) (Health care), 9(2) and 9(4) (Education, individual needs, religion, ethnicity, culture and language), 10(3) (Access, visiting and contact arrangements), 11(7) (Positive behavioural support (including restraint and single separation), 25(8)

(Risk management), 27(2) (Notification of incidents) and 29(5) (Complaints procedures),

- (p) a copy of any correspondence (and reports etc.) sent and received by the special care unit relating to the child,
- (q) any comments, views or suggestions from the child about his or her care in the special care unit, and
- (r) the date on which the child is discharged from the special care unit and the name of the place to which the child is discharged.

SCHEDULE 6*Regulations 20 and 29***OTHER RECORDS TO BE KEPT IN A SPECIAL CARE UNIT**

1. A copy of the statement of purpose.
2. A copy of the care practices, operational policies and procedures.
3. A copy of the accessible and age appropriate care practices, operational policies and procedures.
4. A copy of inspection reports for the previous seven years.
5. The register of children detained in the special care unit.
6. An emergency plan.
7. Any reports or statistics in relation to the performance of the special care unit that the Child and Family Agency may require.
8. A record of complaints made, to include details of their investigation and resolution.
9. A record of the following events and incidents that occur in the special care unit—
 - (a) any accident,
 - (b) any injury or illness,
 - (c) any outbreak of a notifiable disease in the special care unit,
 - (d) the death of a child detained in the unit, the circumstances and cause of the death, including the death of a child following his or her transfer to hospital from the special care unit,
 - (e) any allegation, suspected or confirmed abuse of a child,
 - (f) any allegation of misconduct by the registered provider or any staff member or by any intern, trainee, or person on a placement as part of a vocational training course or a person employed under a contract for services in the special care unit,
 - (g) any occasion where the registered provider, the person in charge or a staff member or an intern, trainee, or person on a placement as part of a vocational training course or a person employed under a contract for services in the special care unit is subject of review by a professional body,

- (h) any occasion where an unplanned evacuation of the special care unit took place,
 - (i) any unexplained absence of a child from the special care unit where the child absconds, is missing or is otherwise absent, is removed without authority, fails to or is prevented from returning to the special care unit,
 - (j) any fire, or loss of power, heating or water,
 - (k) any occasion on which the fire equipment is operated, and
 - (l) any theft or burglary.
10. Records of the food provided for a child detained in the special care unit.
 11. A record of every fire practice, drill, test or maintenance of fire equipment (including fire alarm equipment) conducted in the special care unit and of any action taken to remedy defects in the fire equipment.
 12. A record of all visitors to the special care unit, including the names of visitors.
 13. A record of all notices sent to the chief inspector.



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 set out provision for the purpose of ensuring proper standards in relation to special care units for the provision of special care to children, in respect of whom an interim special care order or a special care order has been made.

These Regulations revoke the Child Care (Special Care) Regulations 2004.

These Regulations may be cited as the Health Act 2007 (Care and Welfare of Children in Special Care Units) Regulations 2017

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2
(Teil: 01 - 6476834 nó 1890 213434; Fax: 01 - 6476843)
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