STATUTORY INSTRUMENTS

1981 No. 932

PUBLIC HEALTH, ENGLAND AND WALES

The Nursing Homes and Mental Nursing Homes Regulations 1981

Made - - - -	1*st July* 1981
Laid before Parliament	10*th July* 1981
Coming into Operation	1*st August* 1981

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The Secretary of State for Social Services, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of the powers conferred on them by sections 3(2)(*b*), 5(1), 6, 8(2A) and 19(3) of the Nursing Homes Act 1975(**a**) and all other powers enabling them in that behalf, hereby make the following regulations:—

(**a**) 1975 c.37; section 8(2A) was inserted by the Health Services Act 1980 (c.53), section 16 and Schedule 4, paragraph 4(2); section 19(3) was amended by the Health Services Act 1980, section 16 and Schedule 4, paragraph 5.

Citation and commencement

1. These regulations may be cited as the Nursing Homes and Mental Nursing Homes Regulations 1981 and shall come into operation on 1st August 1981.

Interpretation

2.—(1) In these regulations unless the context otherwise requires—

"the Act" means the Nursing Homes Act 1975;

"adequate" means sufficient and suitable;

"application" means the application for the registration of a person in respect of a home under the Act and "applicant" shall be construed accordingly;

"health authority" means in relation to any home the Area Health Authority for the area in which the home is situated;

"home" means a nursing home, or a mental nursing home;

"medical officer" means a medical practitioner in the service of the Crown or of a health authority;

"medical practitioner" means a fully registered person within the meaning of the Medical Act 1956(a);

"person authorised" means a person authorised by the Secretary of State or by a health authority to exercise powers under regulation 8 of these regulations;

"person registered" means the person registered in respect of a home under the Act;

"record" means any record maintained, kept or retained in pursuance of regulation 6 including any book, card, form, tape, computerised record, film or notes.

(2) Unless the context otherwise requires, any reference in these regulations to a numbered regulation is a reference to the regulation bearing that number in these regulations, and any reference in a regulation or Schedule to a numbered paragraph is a reference to the paragraph bearing that number in that regulation or Schedule.

Registration

3.—(1) An application shall be made to the Secretary of State in writing and sent or delivered to the health authority and shall be accompanied by a fee of an amount prescribed in Schedule 1 to these regulations.

(2) In making an application an applicant shall furnish such of the particulars specified in Schedule 2 to these regulations and such other information as the Secretary of State may reasonably require.

Variation of conditions of registration

4.—(1) The Secretary of State may vary a condition specifying the number of persons or any other condition specified in the certificate of registration relating to the home imposed by or under section 8(1) or (2) of the Act by giving notice to that effect to the person registered.

(2) A notice given under paragraph (1) shall specify a date, which shall be reasonable in the circumstances, on which the variation specified in the notice

(a) 1956 c.76.

shall have effect and, where there is any variation in the class or the number of patients for whom nursing care is or is to be provided to which the Secretary of State had regard in preparing any notice under subsection (2) or (3) of section 4 of the Act, he shall serve on the person registered such further notice under either or both of those subsections as may be required and the certificate of registration shall be amended accordingly.

(3) A notice given under paragraph (1) shall not prohibit the retention in the home of persons in excess of the number so specified in any case in which all of the persons in the home were resident therein at the date of the service of the said notice.

Right of appeal against decisions concerning registration conditions or refusal or cancellation of registration

5.—(1) Where the Secretary of State proposes to make a decision—

(*a*) to refuse to register an applicant; or

(*b*) to register an applicant subject to conditions; or

(*c*) to cancel the registration of a person in respect of a home; or

(*d*) to vary any of the conditions of registration

the Secretary of State shall give to the applicant or the person registered notice of his intention so to do stating (where appropriate) the grounds on which it is proposed to make such a decision (in this regulation called "a paragraph (1) notice").

(2) If an applicant or a person registered who has received a paragraph (1) notice gives notice to the health authority within the period of 7 days from the date of the receipt of the paragraph (1) notice that he desires to have an opportunity of showing cause orally or in writing why the proposal contained in the paragraph (1) notice should not be carried into effect, the Secretary of State shall before making his decision afford him such an opportunity within the period of 28 days from the date of receipt of the notice given by the applicant or the person registered.

(3) A paragraph (1) notice given by the Secretary of State shall contain a statement setting out the effect of paragraph (2).

(4) If, after giving the applicant or the person registered an opportunity of showing cause as described in paragraph (2), the Secretary of State makes a decision to carry into effect the proposal referred to in the paragraph (1) notice, he shall give the applicant or the person registered notice of that decision and the reasons therefor within 7 days of the decision.

(5) If, after having been afforded an opportunity of showing cause as described in paragraph (2), an applicant or person registered is aggrieved by a decision of the Secretary of State of which notice is given to him under paragraph (4), he may appeal to a magistrates' court within 21 days from the date on which he received notice of that decision.

(6) Where an applicant or a person registered appeals to a magistrates' court in pursuance of paragraph (5), the procedure shall be by way of complaint for an order and the Magistrates' Courts Act 1980(**a**) shall apply to the proceedings.

(7) For the purposes of this regulation, any period of time calculated from a date shall include that date.

(**a**) 1980 c.43.

Records

6.—(1) The person registered shall maintain a record in the form of a register of all patients in the home, which register shall, in respect of each patient and as from the date the patient enters the home, include the following particulars—

(*a*) the name, address and date of birth of the patient;

(*b*) the name and address of the patient's next of kin or any person authorised to act on the patient's behalf;

(*c*) the name and address of the patient's medical practitioner;

(*d*) the date on which the patient entered the home;

(*e*) the date on which the patient left the home;

(*f*) if the patient is transferred to hospital, the date of and reasons for the transfer and the name of the hospital to which the patient is transferred;

(*g*) if the patient died in the home, the date, time and cause of death.

(2) In the case of a maternity home, the register of patients maintained under paragraph (1) shall in addition to the particulars mentioned in that paragraph include the following particulars—

(*a*) the date and time of delivery of the patient, the number of children then born to the patient, their sex and whether born alive or dead;

(*b*) the name and qualifications of the person who delivered the patient;

(*c*) the date and the time of any miscarriage occurring in the home;

(*d*) the date on which any child born to a patient in the home left the home;

(*e*) if any child born to a patient in the home died at the home, the date and time of the death.

(3) the person registered shall maintain a separate record in the form of a register of all surgical operations performed at the home which register shall include the name of the medical practitioner or dental practitioner who performed the operation and the name of the anaesthetist in attendance.

(4) Any record in the form of a register maintained in pursuance of paragraph (1), (2) or (3) shall be retained for a minimum of one year from the date of the last entry in the register.

(5) The person registered shall maintain a case record in the home in respect of each patient which shall include the following particulars—

(*a*) an adequate daily statement of the patient's health and condition, and

(*b*) a note of any investigations and details of surgical operations carried out and any treatment given.

(6) In the case of a maternity home, in addition to the registers and case records maintained under paragraphs (1), (2) and (5), the person registered shall maintain a case record in respect of each child born in the home which shall include—

(*a*) the weight and condition of the child at birth;

(*b*) a daily statement of the child's health;

(*c*) if any paediatric examination is carried out involving the following procedures namely—

(i) examination for congenital abnormalities including congenital dislocation of the hip;

(ii) measurement of the circumference of the head of the child;

(iii) measurement of the length of the child;

(iv) screening for phenylketonuria

details of each such examination.

(7) The case records maintained in pursuance of paragraph (5) or (6) shall be retained for a minimum of one year from the date of death or discharge of the patient.

(8) The person registered shall keep a record of the nursing staff employed at the home which shall include the full name, qualification and details of position and dates of employment at the home of each such member of staff.

Notices in respect of deaths

7.—(1) The person registered shall in respect of any patient, or any child born to a patient, who dies in the home send notice in writing of such death to the health authority not later than 24 hours after the death occurs.

(2) For the purposes of paragraph (1), no account shall be taken of any part of a period of 24 hours which falls on a Saturday, Sunday, Christmas Day, Good Friday or on a bank holiday within the meaning of the Banking and Financial Dealings Act 1971 (**a**).

Inspection of nursing homes

8.—(1) Subject to the following provisions of this regulation any person authorised, on producing (if asked to do so) a duly authenticated document showing that he is so authorised, may enter and inspect any premises which are used, or which he reasonably believes to be used, as a nursing home, and in the course of such inspection may require the production of records.

(2) Subject to paragraph (3), a person authorised may require the person registered to furnish such information in relation to the nursing home as may reasonably be required for the purposes of inspection.

(3) Nothing in this regulation shall be deemed to authorise any person who is not a medical officer to inspect any clinical record relating to a patient in a home.

Frequency of inspection of homes

9. The Secretary of State may inspect any home on such occasions and at such intervals as he may decide but shall in any case do so not less than twice in every period of 12 months.

Provision of facilities and services

10.—(1) The person registered shall, having regard to the size of the home and the number, age, sex and condition of the patients therein—

(*a*) provide adequate professional, technical, ancillary and other staff;

(*b*) provide for each patient in the home adequate accommodation and space, including where appropriate, day-room facilities;

(*c*) provide adequate furniture, bedding, curtains and where necessary suitable screens and floor covering in rooms occupied or used by patients;

(*d*) provide and maintain adequate medical, surgical and nursing equipment and treatment facilities;

(**a**) 1971 c.80.

(*e*) provide for the use of patients adequate wash basins and baths supplying hot and cold water and adequate water closets and sluicing facilities;

(*f*) provide adequate light, heating and ventilation in all parts of the home occupied or used by patients;

(*g*) keep all parts of the home occupied or used by patients in good structural repair, clean and reasonably decorated;

(*h*) take adequate precautions against the risk of fire and make adequate arrangements for detecting, containing and extinguishing fire and for giving warning and for the evacuation of patients and staff in the event of fire;

(*i*) provide adequate kitchen equipment, crockery and cutlery and facilities for the preparation and storage of food;

(*j*) supply adequate food for every patient;

(*k*) arrange appropriate laundering facilities;

(*l*) make adequate arrangements for the disposal of swabs, soiled dressings, instruments and similar substances and materials;

(*m*) make adequate arrangements for patients in the home where necessary to receive medical and dental services, whether under Part II of the National Health Service Act 1977 (**a**) or otherwise;

(*n*) make adequate arrangements for the recording, safe keeping, handling and disposal of drugs;

(*o*) provide adequate arrangements for the prevention of infection, toxic conditions, or spread of infection at the home;

(*p*) make adequate arrangements where appropriate for the training or occupation and recreation of patients and play and education facilities for children;

(*q*) take adequate precautions against the risk of accident;

(*r*) provide adequate facilities for any person authorised to interview in private any patient in the home.

(2) The person registered shall—

(*a*) provide for the home to be connected to a public telephone service;

(*b*) where the home is a maternity home and in any home in which surgical operations are undertaken or life support systems used, provide such electrical supply as during interruption of public supply is needed to safeguard the lives of the patients;

(*c*) make adequate arrangements either with the health authority or otherwise for the care of patients, and children born to patients, in medical emergencies.

Offences

11.—(1) Any person who fails without reasonable cause—

(*a*) to maintain, keep or retain any record which he is required to maintain, keep or retain under regulation 6; or

(*b*) to send to a health authority any notice which he is required to send under regulation 7; or

(*c*) to furnish any information which he is required to furnish under regulation 8(2)

(**a**) 1977 c.49.

shall be guilty of an offence against these regulations.

(2) Any person who without reasonable cause refuses to allow a person authorised to inspect any premises or any register or record under regulation 8(1) shall be guilty of an offence against these regulations.

(3) Where the Secretary of State considers that the person registered has failed or is failing to conduct the home in accordance with any provision of regulation 10 he may serve a notice on the person registered specifying—

(*a*) in what respect in his opinion the person registered has failed or is failing to comply with the requirements of that regulation; and

(*b*) what action, in the opinion of the Secretary of State the person registered should take so as to comply with that regulation, and within what period he should take such action.

(4) Where the person registered has failed to comply with any provision of regulation 10, he shall be guilty of an offence against these regulations.

Form and service of notices

12. Any notice which is required or authorised by these regulations to be given to any person shall be in writing and shall either be delivered by hand or sent by recorded delivery to that person or to the address which he last notified to the Secretary of State.

Revocation of regulations

13.—(1) Subject to paragraph (2), the regulations specified in Schedule 3 to these regulations are revoked.

(2) The revocation effected by paragraph (1) shall not affect any register, record, certificate, notice, requirement, appeal, decision, condition or application, made, prepared, issued or given under the regulations so revoked, and every such register, record, certificate, notice, requirement, appeal, decision, condition or application, shall, so far as it could have been made, prepared, issued or given under these regulations, have effect as if it had been so made, prepared, issued or given.

Patrick Jenkin,
Secretary of State for Social Services.

1st July 1981.

Signed by the authority of the Secretary of State for Wales.

Wyn Roberts,
Parliamentary Under Secretary of State for Wales.

1st July 1981.

Regulation 3(1)

SCHEDULE 1

PRESCRIBED FEES TO ACCOMPANY APPLICATIONS UNDER THE ACT

1. Subject to paragraphs 2 to 4, the prescribed fee in respect of a home in which are provided the number of beds for the use of patients at night specified in Column 1 of the table below shall be the fee specified in Column 2 of that table.

TABLE

Column 1 number of beds	Column 2 fee
not more than 50	£100
more than 50 but not more than 75	£175
more than 75	£250

2. For the purposes of paragraph 1, no account shall be taken of cots provided for the use of children born to women who are patients in the home.

3. Subject to paragraph 4, for a home in which no beds are provided for the use of patients at night the prescribed fee shall be £100.

4. Notwithstanding paragraphs 1 to 3, the prescribed fee shall be £25 where—

(*a*) an application for registration under the Act is made to enable a person to be registered in respect of a home in place of a person—

(i) who is the person registered in respect of that home, or

(ii) who has died within the 2 months preceding the application and immediately before his death was registered in respect of that home,

and

(*b*) no application for registration would have been made but for the circumstances set out in (*a*) of this paragraph.

Regulation 3(2)

SCHEDULE 2

MATTERS IN RESPECT OF WHICH A HEALTH AUTHORITY MAY REQUIRE INFORMATION TO BE FURNISHED BY AN APPLICANT FOR REGISTRATION

1. The full name and address, and professional or technical qualifications (if any) of the applicant.

2. Where the application is made by a company, society, association or body, the address of its registered office or principal place of business and the full names and addresses and technical qualifications (if any) of the directors or partners.

3. The address of any other home or of any residential home for mentally disordered persons or of any disabled persons' or old persons' home within the meaning of the Residential Homes Act 1980(**a**) in which the applicant has or had a business interest and the nature and extent of his interest.

4. The situation of the home and its form of construction.

5. The accommodation available, and the equipment and facilities provided or to be provided in the home.

6. The date on which the home was established or is to be established.

(**a**) 1980 c.7.

7. Whether any other business is or will be carried on in the same premises as the home.

8. The type of nursing home (ie mental nursing home, maternity home, clinic catering for day-patients only, acute hospital etc).

9. The number of patients (excluding staff) for whom it is proposed to be used distinguishing between different categories of patients and indicating the age-range of patients in each category.

10. The full names, ages, qualifications and experience of persons employed or proposed to be employed in the management of the home and whether they are or will be resident in the home.

11. The arrangements for the management and control of the home.

12. The full names and qualifications of any resident or non-resident employed medical practitioners.

13. The full names and (where appropriate) qualifications and grades of the nursing and other professional, technical, administrative and ancillary staff (other than staff included under paragraph 12) employed or proposed to be employed in the home distinguishing between resident and non-resident staff.

14. The details of arrangements made or proposed to be made in pursuance of any of the matters mentioned in regulation 10.

15. The arrangements made for the supply of blood and blood products.

16. The arrangements made for the provision of pathology and radiology services.

Regulation 13

SCHEDULE 3

REGULATIONS REVOKED

Column 1 Regulations revoked	Column 2 References
The Mental Health (Registration and Inspection of Mental Nursing Homes) Regulations 1960	S.I. 1960/1272
The Conduct of Mental Nursing Homes Regulations 1962	S.I. 1962/1999
The Conduct of Nursing Homes Regulations 1963	S.I. 1963/1434
The Nursing Homes (Registration and Records) Regulations 1974	S.I. 1974/22

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations consolidate, with amendments, the Regulations revoked by regulation 13 and Schedule 3. Provision is made for the procedure for registration of persons in respect of nursing homes and mental nursing homes under the Nursing Homes Act 1975 and the fees payable on applications for registration and, in respect of such homes, the provision of facilities and services, the maintenance and keeping of registers and records, the giving of notices, inspections and offences. The principal amendments introduce a schedule of registration fees (regulation 3 and Schedule 1); new rights of appeal against registration subject to conditions and the variation of registration conditions (regulation 5); changes in records consequent upon the Nursing Homes Act 1975 and a requirement that records be kept for at least one year (regulation 6); new requirements as to the frequency of inspection of homes (regulation 9). Some minor amendments have been made to the provision relating to facilities and services in homes (regulation 10) and elsewhere.

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