



STATUTORY INSTRUMENTS.

S.I. No. 649 of 2023

EUROPEAN COMMUNITIES (RECEPTION CONDITIONS)
(AMENDMENT) REGULATIONS 2023

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I, RODERIC O'GORMAN, Minister for Children, Equality, Disability, Integration and Youth, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), and for the purpose of giving further effect to Directive 2013/33/EU of 26 June 2013¹, hereby make the following regulations:

1. (1) These Regulations may be cited as the European Communities (Reception Conditions) (Amendment) Regulations 2023.

(2) These Regulations shall come into operation on the 9th day of January 2024.

2. In these Regulations, “Principal Regulations” means the European Communities (Reception Conditions) Regulations 2018 (S.I. No. 230 of 2018).

3. Regulation 2(1) of the Principal Regulations is amended by the insertion of the following definitions:

“authorised person” means a person appointed under Regulation 27C;

‘Authority’ means the Health Information and Quality Authority;

‘enactment’ has the same meaning it has in the Interpretation Act 2005;

‘material benefit’ means the housing, food and associated benefits in kind referred to in paragraph (a) of the definition of ‘material reception conditions’;

‘National Standards’ means the National Standards for accommodation offered to people in the international protection process for the time being published on a website maintained by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth;

‘service provider’, in relation to an accommodation centre, means a person who, pursuant to an arrangement with the Minister for Children, Equality, Disability, Integration and Youth, is engaged in the provision to a recipient of a material benefit at that accommodation centre;”.

4. Regulation 6 of the Principal Regulations is amended -

(a) in paragraph (1) -

(i) in subparagraph (b), by the substitution of “accommodation,” for “accommodation, or”,

¹ OJ No. L. 180, 29.03.2013, p.96

- (ii) in subparagraph (c), by the substitution of “behaviour, or” for “behaviour.”, and
- (iii) by the insertion of the following subparagraph after subparagraph (c):
 - “(d) the recipient has abandoned the place of accommodation at which the material reception conditions are being provided to him or her.”,
- (b) in paragraph (2), by the substitution of “subparagraph (a), (b), (c) or (d)” for “paragraph (a), (b) or (c)”, and
- (c) in paragraph (3) -
 - (i) in subparagraph (a), by the substitution of “person,” for “person, and”,
 - (ii) in subparagraph (b), by the substitution of “relates, and” for “relates.”, and
 - (iii) by the insertion of the following subparagraph after subparagraph (b):
 - “(c) any information provided to him or her by the Minister for Justice including in relation to the matters referred to in Regulation 27.”.

5. Regulation 24 of the Principal Regulations is amended -

- (a) by the insertion of the following paragraph after paragraph (2):
 - “(2A) The Minister for Children, Equality, Disability, Integration and Youth may disclose personal data to the Minister for Social Protection for the purposes of Regulation 6(2).”,
- (b) by the insertion of the following paragraph after paragraph (6):
 - “(6A) The Authority, where it obtains information in the course of performing its functions under these Regulations, may share such information (including personal data and special categories of personal data) with a relevant person where the Authority considers it necessary and proportionate for the purpose of protecting the safety and welfare of a recipient.
 - (6B) A relevant person shall use any information provided to it under paragraph (6A) solely for the purpose of the performance by it of its functions.”,
- (c) by the insertion of the following definitions in paragraph (8):
 - “‘relevant person’ means all or any of the following:
 - (a) the Minister for Children, Equality, Disability, Integration and Youth;
 - (b) the Minister for Justice;

- (c) the Minister for Education;
- (d) the Minister for Further and Higher Education, Research, Innovation and Science;
- (e) the Minister for Social Protection;
- (f) the Child and Family Agency;
- (g) the Health Service Executive;
- (h) a service provider;
- (i) any other person whose functions, in the opinion of the Authority, include protecting the safety and welfare of recipients;

‘special categories of personal data’ has the same meaning as it has in the Data Protection Act 2018.”.

6. Regulation 25 of the Principal Regulations is amended by the substitution of the following paragraph for paragraph (4):

“(4) The Minister shall cause house rules made under this Regulation to be published on a website maintained by or on behalf of the Minister.”.

7. The Principal Regulations are amended by the insertion of the following Regulations after Regulation 27:

“Monitoring of Accommodation Centres

27A. (1) The Authority shall, for the purposes of Article 28 of the Directive -

- (a) monitor compliance by service providers with the National Standards,
- (b) advise the Minister for Children, Equality, Disability, Integration and Youth as to the level of compliance by service providers with the National Standards, and
- (c) provide, in accordance with Regulation 27G, a report of each inspection of an accommodation centre to the Minister for Children, Equality, Disability, Integration and Youth.

Provision of information to Authority

27B. The Authority may require a service provider to provide it with any information or statistics that the Authority considers necessary in order to determine the level of compliance by the service provider with the National Standards.

Authorised persons

27C. (1) The Authority shall appoint such and so many of its employees as it thinks fit to be authorised persons for the purposes of these Regulations.

(2) Each authorised person shall be given a certificate of his or her appointment, and, when exercising any power conferred on an authorised person under these Regulations, shall, if requested by any person affected, produce the certificate, or a copy of it, to that person.

Inspection of accommodation centres

27D. (1) An authorised person may, for the purposes of the performance by the Authority of its functions under these Regulations, do any of the following:

- (a) subject to paragraph (5), enter and inspect at any time an accommodation centre,
- (b) at such accommodation centre, inspect, take copies of or extracts from and remove from the centre any documents or records (including personal records) relating to the provision to a recipient by, or on behalf of, the service provider, of a material benefit at that centre,
- (c) inspect the operation of any computer and any associated apparatus or material which is or has been in use in connection with the records in question,
- (d) inspect any other item and remove it from the accommodation centre if the authorised person considers it necessary or expedient for the purposes of his or her functions under these Regulations,
- (e) interview in private -
 - (i) any person who is engaged in providing to a recipient, on behalf of the service provider, a material benefit at that accommodation centre, or
 - (ii) any recipient who is being provided with a material benefit at the accommodation centre and who consents to be interviewed,
- (f) where an authorised person considers it necessary to do so in order to preserve for inspection records, documents or any other matter, to secure, for later inspection, and for such period as may reasonably be necessary for the purposes of the exercise of the authorised person's powers under this Regulation, documents or records accessed or found during the inspection under this Regulation, and any data equipment, including any computer, in which those documents or records may be held,

- (g) take photographs, recordings, digital images and measurements of the accommodation centre,
- (h) make any other examination into the state and management of the accommodation centre or the standard of a material benefit provided by, or on behalf of, a service provider to recipients at that centre.

(2) At any time an authorised person, in respect of an accommodation centre which is the subject of an inspection under paragraph (1), may require -

- (a) a service provider, or
- (b) any person who -
 - (i) is in charge of the centre,
 - (ii) is engaged in providing to a recipient, on behalf of the service provider, a material benefit at that centre, or
 - (iii) possesses, or is in charge of, any records held at the centre or in respect of a material benefit provided at that centre, even if the records are held elsewhere,

to furnish the authorised person with the information he or she reasonably requires for the purposes of his or her functions under these Regulations and to make available to him or her any document or records in the power or control of the service provider or of any person described in subparagraph (b) that, in the opinion of the authorised person, is relevant to his or her functions under these Regulations.

(3) If a person is required under this Regulation to produce a document or record and that document or record is kept by means of a computer, the authorised person may require the person who is required to produce that document or record to produce it in a form which is legible and can be taken away.

(4) If an authorised person, in respect of an accommodation centre the subject of an inspection under paragraph (1), considers an explanation necessary and expedient for the purposes of his or her functions under these Regulations, he or she may require the service provider or any person referred to in paragraph (2)(b) to provide an explanation of any -

- (a) document or record inspected, copied or provided in accordance with this Regulation,
- (b) other information provided in the course of the inspection, or
- (c) other matters which are the subject of the functions being exercised by the authorised person under this Regulation.

(5) An authorised person shall not enter a dwelling other than -

- (a) with the consent of the occupier, or
- (b) pursuant to a warrant under paragraph (7).

(6) Where, in relation to any accommodation centre, an authorised person, in the performance of his or her functions under these Regulations, is prevented or has reasonable cause to believe that he or she will be prevented from entering the accommodation centre or any part of it, an application may be made to the District Court for a warrant under paragraph (7) authorising the entry.

(7) Where a judge of the District Court is satisfied on the sworn information of an authorised person that there are reasonable grounds for believing that –

- (a) there are any records (including records stored in a non-legible form) relating to a material benefit provided to a recipient by, or on behalf of, a service provider at that accommodation centre or that there is anything being used at the centre which the authorised person considers it necessary to inspect for the purposes of his or her functions under these Regulations, or
- (b) there is, or such an inspection is likely to disclose, evidence of non-compliance with the National Standards,

the judge may issue a warrant authorising an authorised person, accompanied by other persons with appropriate qualifications, or by members of the Garda Síochána, as may be necessary, at any time or times, within one month after the date of issue of the warrant, on production of the warrant if requested, to enter the accommodation centre or any part of it, if need be by reasonable force, and to perform the functions conferred by or under this Regulation.

(8) If an authorised person -

- (a) has reasonable cause to expect any serious obstruction in the performance of his or her functions under this Regulation, and
- (b) is in possession of a warrant under paragraph (7),

the authorised person, when performing those functions, may be accompanied by a member of the Garda Síochána.

(9) In this Regulation and Regulation 27E, “dwelling” includes -

- (a) the space occupied by a recipient in an accommodation centre for his or her private use,
- (b) any part of an accommodation centre that is occupied as a private residence by -
 - (i) a service provider,
 - (ii) a person in charge of the centre, or
 - (iii) a person who is engaged in providing to a recipient, on behalf of the service provider, a material benefit at that accommodation centre.

Prohibition against certain conduct in relation to inspection under Regulation 27D

- 27E. (1) A person who -
- (a) refuses to allow an authorised person, in the exercise of his or her functions under Regulation 27D -
 - (i) to enter, in accordance with that Regulation or in accordance with a warrant issued pursuant to paragraph (7) of that Regulation, an accommodation centre or any part of it other than a dwelling, or
 - (ii) to enter, under and in accordance with a warrant issued pursuant to paragraph (7) of that Regulation, a dwelling,
 - (b) refuses to allow a member of the Garda Síochána, or any person who accompanies an authorised person, to enter, under and in accordance with a warrant issued pursuant to paragraph (7) of Regulation 27D, an accommodation centre or any part of it including a dwelling,
 - (c) obstructs or impedes -
 - (i) an authorised person in the exercise of his or her functions under Regulation 27D, or
 - (ii) a member of the Garda Síochána, or any person who accompanies an authorised person, in accordance with a warrant issued pursuant to paragraph (7) of Regulation 27D, or
 - (d) gives to an authorised person, in the exercise of his or her functions under Regulation 27D, information that the person giving the information knows, or should reasonably know, to be false or misleading,

shall be guilty of an offence and shall be liable on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months, or both.

(2) Summary proceedings for an offence under this Regulation may be brought and prosecuted by the Authority.

(3) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act 1851, summary proceedings for an offence under this Regulation may be brought -

- (a) within 12 months from the date on which the offence was committed or alleged to have been committed, or
- (b) within 6 months from the date on which evidence first comes to the knowledge of the Authority that is sufficient, in the opinion of the Authority, to justify the bringing of the proceedings,

whichever is the later, but no such proceedings shall be instituted later than 2 years from the date on which the offence was committed or alleged to have been committed.

(4) For the purposes of paragraph (3)(b), a document, purporting to have been issued by the Authority, certifying the date on which the evidence described in that paragraph first came to the knowledge of the Authority -

- (a) is admissible without proof of the signature or official character of the person appearing to have signed the document, and
- (b) in the absence of evidence to the contrary, is proof of the matters certified in the document.

(5) Where an offence under this Regulation is committed by a body corporate and is proved to have been so committed with the consent or connivance of any person, being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person shall, as well as the body corporate, be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

Inspection reports

27F. (1) A person who conducts an inspection of an accommodation centre in accordance with Regulation 27D shall prepare a report (in this Regulation referred to as an ‘inspection report’) of the inspection after each inspection.

(2) Subject to this Regulation, the Authority may publish an inspection report.

(3) Before an inspection report is published, the Authority shall give a service provider a copy of the draft report along with a written notice stating that the provider may, not later than 21 days from the date on which the notice was received by him or her, or such further period as the Authority allows, make written submissions to the Authority on the draft report.

(4) The Authority -

- (a) may, as soon as practicable after the expiration of the period referred to in paragraph (3) and, having considered any submission made pursuant to that paragraph, amend the draft report, and
- (b) shall, as soon as practicable and, where the report is to be published under paragraph (2), prior to such publication, furnish the final report to the Minister for Children, Equality, Disability, Integration and Youth and to the service provider.

(5) The Authority or an authorised person shall not be liable in damages arising from any report or other document prepared, or communication made, in good faith, for the purposes of, or in connection

with, the performance of the functions of the Authority or an authorised person under these Regulations.

Statutory notifications to the Authority

27G. The Minister for Children, Equality, Disability, Integration and Youth shall -

- (a) notify the Authority, within 7 days of a premises being designated as an accommodation centre in accordance with Regulation 7, of such designation, and
- (b) where a premises is to cease being used as an accommodation centre, notify the Authority, as soon as practicable, of the date of such cesser.

Notification of serious incidents

27H. (1) Where an incident or event to which paragraph (3) applies occurs in an accommodation centre, the service provider concerned shall, subject to

paragraph (2) -

- (a) notify the Authority, within 3 days of the date on which it occurred, of the incident or event, and
- (b) keep a record of the incident or event.

(2) In the case of an unexpected absence of a minor from an accommodation centre, the service provider concerned shall notify the Authority, within 24 hours of becoming aware of the absence of the minor, of such absence.

(3) The incidents or events to which this paragraph applies are -

- (a) the unexpected death of a recipient,
- (b) the making of an allegation of abuse of a recipient,
- (c) any serious injury to a recipient in an accommodation centre that requires immediate medical treatment,
- (d) the unexpected absence of a minor from the accommodation centre.

(4) In this Regulation -

‘abuse’ means mistreatment of any kind and includes the physical, financial or material, psychological, sexual or discriminatory mistreatment or neglect of a recipient;

‘serious injury’ means an injury which creates a substantial risk of death or which causes serious disfigurement or substantial loss or impairment of the mobility of the body as a whole or of the function of any particular bodily member or organ.”.



GIVEN under my Official Seal,
18 December, 2023.

RODERIC O'GORMAN,
Minister for Children, Equality, Disability, Integration and
Youth.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
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