



STATUTORY INSTRUMENTS.

**S.I. No. 628 of 2022**

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HEALTH ACT 2007 (CARE AND WELFARE OF RESIDENTS IN  
DESIGNATED CENTRES FOR OLDER PEOPLE) (AMENDMENT)  
REGULATIONS 2022

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HEALTH ACT 2007 (CARE AND WELFARE OF RESIDENTS IN  
DESIGNATED CENTRES FOR OLDER PEOPLE) (AMENDMENT)  
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I, STEPHEN DONNELLY, Minister for Health, in exercise of the powers conferred on me by section 101 of the Health Act 2007 (No. 23 of 2007), as amended by section 57 of the Health (Miscellaneous Provisions) Act 2022 (No. 6 of 2022) (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:

1. (1) These Regulations may be cited as the Health Act 2007 (Care and Welfare of Residents in Designated Centres for Older People) (Amendment) Regulations 2022.

(2) The Principal Regulations, the Health Act 2007 (Care and Welfare of Residents in Designated Centres for Older People) (Amendment) Regulations 2016, the Health Act 2007 (Care and Welfare of Residents in Designated Centres for Older People) (Amendment) Regulations 2017 (S.I. 428 of 2017) and these Regulations may be cited together as the Health Act 2007 (Care and Welfare of Residents in Designated Centres for Older People) 2013 to 2022 and shall be construed together as one.

2. These Regulations come into operation on 01 March 2023.

3. In these Regulations “Principal Regulations” means the Health Act 2007 (Care and Welfare of Residents in Designated Centres for Older People) Regulations 2013 (S.I. 415 of 2013).

4. Regulation 2 of the Principal Regulations (as amended by the Health Act 2007 (Care and Welfare of Residents in Designated Centres for Older People) (Amendment) Regulations 2017 (S.I. 428 of 2017)) is amended -

(a) by inserting after the definition of “Chief Inspector” the following definition:

“complainant” means –

(a) a resident,

(b) a spouse, a civil partner, a cohabitant, a close relative, or a carer of the resident,

(c) any person who, by law or by appointment of a court, has the care of the affairs of the resident,

(d) any legal representative of the resident, or

- (e) any other person with the consent of the resident;”, and
- (b) by inserting after the definition of “designated centre” the following definition:

“independent advocacy service’ means advocacy support provided by an organisation that is free from conflict of interest and is independent of family and service providers;”.

5. Regulation 9(3) of the Principal Regulations is amended –
  - (a) in subparagraph (e), by substituting “rights.” for “rights,” and
  - (b) by deleting subparagraph (f).

6. Regulation 9 of the Principal Regulations is amended by inserting after paragraph (4) the following paragraph:

“(5) A registered provider shall ensure that a resident has access to independent advocacy services, including access to in-person awareness campaigns by independent advocacy services and access to meet and receive support from independent advocacy services. These services should be made available to residents in the designated centres and in private, as required.”.

7. Regulation 20(2) of the Principal Regulations is amended –
  - (a) in subparagraph (c), by substituting “the procedure respecting complaints, including external complaints processes such as the Ombudsman,”, for “the procedure respecting complaints, and”,
  - (b) in subparagraph (d), by substituting “visits, and” for “visits.”, and
  - (c) by inserting after subparagraph (d) the following subparagraph:
    - “(e) information regarding independent advocacy services.”.

8. The following Regulation is substituted for Regulation 34 of the Principal Regulations:

*“Complaints Procedures*

34. (1) The registered provider shall provide an accessible and effective procedure for dealing with complaints, which includes a review process, and shall—

- (a) make each resident aware of the complaints procedure as soon as is practicable after the admission of the resident to the designated centre concerned, and
- (b) display a copy of the complaints procedure in a prominent position in the designated centre, and where the provider has a website, on that website.

(2) The registered provider shall ensure that the complaints procedure provides for the following:

- (a) the nomination of a complaints officer to investigate complaints;
- (b) that complaints are investigated and concluded, as soon as possible and in any case no later than 30 working days after the receipt of the complaint;
- (c) the provision of a written response informing the complainant whether or not their complaint has been upheld, the reasons for that decision, any improvements recommended and details of the review process;
- (d) the nomination of a review officer to review, at the request of a complainant, the decision referred to at paragraph (c);
- (e) that a review is conducted and concluded, as soon as possible and no later than 20 working days after the receipt of the request for review;
- (f) the provision of a written response informing the complainant of the outcome of the review;
- (g) the provision of a written response informing the complainant when the complainant will receive a written response in accordance with paragraph (b) or (e), as appropriate, in the event that the timelines set out in those paragraphs cannot be complied with and the reason for any delay in complying with the applicable timeline; and
- (h) that the persons nominated under paragraph (a) and (d) should not be involved in the subject matter of the complaint, and as far as is practicable, shall not be involved in the direct care of the resident.

(3) The registered provider shall take such steps as are reasonable to give effect as soon as possible and to the greatest extent practicable to any improvements recommended by a complaints or review officer.

(4) The registered provider shall ensure that a resident:

- (a) has access to records and information in relation to the complaint, subject to the law, and
- (b) is not adversely affected by reason of the complaint having been made by them or by any other person, whether or not that person comes within the definition of complainant or not.

- (5) (a) The registered provider shall offer or otherwise arrange for such practical assistance to a complainant, as is necessary, for the complainant to -
  - (i) understand the complaints process,
  - (ii) make a complaint in accordance with the designated centre's complaints procedure,
  - (iii) request a review in a case where he or she is dissatisfied with the decision made in relation to his or her complaint, or
  - (iv) refer the matter to an external complaints process, such as the Ombudsman; and
- (b) The registered provider may, where appropriate assist a person making or seeking to make a complaint, subject to his or her agreement, to identify another person or independent advocacy service who could assist with the making of the complaint.
- (6) The registered provider shall ensure that:
  - (a) all complaints received, the outcomes of any investigations into complaints, any actions taken on foot of a complaint, any reviews requested and the outcomes of any reviews are fully and properly recorded and that such records are in addition to and distinct from a resident's individual care plan; and
  - (b) as part of the designated centre's annual review, as referred to in Part 7, a general report is provided on:
    - (i) the level of engagement of independent advocacy services with residents, and
    - (ii) complaints received, including reviews conducted.
- (7) The registered provider shall ensure that –
  - (a) nominated complaints officers and review officers receive suitable training to deal with complaints in accordance with the designated centre's complaints procedures, and
  - (b) all staff are aware of the designated centre's complaints procedures, including how to identify a complaint.”

9. Schedule 4 to the Principal Regulations is amended by substituting for:

**“Complaints**

6. A record of all complaints made by residents or representatives or relatives of residents or by persons working at the designated centre about the operation of the designated centre, and the action taken by the registered provider in respect of any such complaint.”

the following:

**“Complaints**

6. A record of all complaints by a complainant, including any reviews thereof, or complaints by persons working in a designated centre about the operation of the designated centre, and the action taken by the registered provider in respect of any such complaint.”

10. Schedule 5 to the Principal Regulations is amended by substituting for the matter set out at reference No. 20 the following:

“20. The handling, investigation and review of complaints about any aspects of service, care and treatment provided in, or on behalf of a designated centre.”



GIVEN under my Official Seal,  
5 December, 2022.

STEPHEN DONNELLY,  
Minister for Health.

## EXPLANATORY NOTE

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

These Regulations amend the Health Act 2007 (Care and Welfare of Residents in Designated Centres for Older People) Regulations 2013.

The purpose of these Regulations is to ensure access to independent advocacy services. These Regulations also contain provisions providing for effective complaints mechanisms for residents of designated centres.

These Regulations may be cited as the Health Act 2007 (Care and Welfare of Residents in Designated Centres for Older People) 2013 to 2022.

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