

《安老院條例》 (第 459 章)

Residential Care Homes (Elderly Persons) Ordinance (Cap. 459)

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第 6 部 Part 6	6-1—6-8	26.7.2024
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附表 1 Schedule 1	S1-1—S1-10	16.6.2024
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尚未實施的條文 / 修訂 ——

尚未實施的條文及修訂的資料，可於「電子版香港法例」(<https://www.elegislation.gov.hk>) 閱覽。

Provisions / Amendments not yet in operation —

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制定史

本為 1994 年第 90 號 —— 1997 年第 362 號法律公告，1998 年第 25 號，1999 年第 17 號，2004 年第 29 號法律公告，2011 年第 12 號，2012 年第 1 號編輯修訂紀錄，2018 年第 34 號，2018 年第 5 號編輯修訂紀錄，2020 年第 4 號編輯修訂紀錄，2020 年第 21 號，2023 年第 12 號，2024 年第 24 號

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《安老院條例》

(第 459 章)

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Residential Care Homes (Elderly Persons) Ordinance

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本條例旨在規管為年滿 60 歲的人士提供住宿照顧而設立的安老院。

An Ordinance to regulate homes established for the residential care of persons who have attained the age of 60 years.

[1995 年 4 月 1 日] 1995 年第 95 號法律公告
(格式變更——2012 年第 1 號編輯修訂紀錄)

[1 April 1995] L.N. 95 of 1995
(Format changes—E.R. 1 of 2012)

(略去制定語式條文——2012 年第 1 號編輯修訂紀錄)

(Enacting provision omitted—E.R. 1 of 2012)

第 1 部 導言

Part 1 Preliminary

1. 簡稱

(編輯修訂——2020 年第 4 號編輯修訂紀錄)

- (1) 本條例可引稱為《安老院條例》。
- (2) (已失時效而略去——2012 年第 1 號編輯修訂紀錄)

1. Short title

(Amended E.R. 4 of 2020)

- (1) This Ordinance may be cited as the Residential Care Homes (Elderly Persons) Ordinance.
- (2) (Omitted as spent—E.R. 1 of 2012)

2. 釋義

- (1) 在本條例中，除文意另有所指外——(由 2023 年第 12 號第 3 條修訂)

安老院 (residential care home) 指慣常有超過 5 名年滿 60 歲的人士獲收容在其內住宿以便獲得照顧的處所；

負責人 (responsible person) 就某安老院而言，指符合以下說明的人——

- (a) 已根據第 11A(2)、11B(2) 或 11I(4) 條成為該安老院的負責人；及

2. Interpretation

- (1) In this Ordinance, unless the context otherwise requires—(Amended 12 of 2023 s. 3)

Cap. 613 (《第613章》) means the Residential Care Homes (Persons with Disabilities) Ordinance (Cap. 613); (Added 12 of 2023 s. 3)

Cap. 613A (《第613A章》) means the Residential Care Homes (Persons with Disabilities) Regulation (Cap. 613 sub. leg. A); (Added 12 of 2023 s. 3)

Director (署長) means the Director of Social Welfare;

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(b) 並不是第 11F(5)、11G(1) 或 11H(4) 條所指的已停任的上述負責人；(由 2023 年第 12 號第 3 條增補)

《第 613 章》(Cap. 613) 指《殘疾人士院舍條例》(第 613 章)；(由 2023 年第 12 號第 3 條增補)

《第 613A 章》(Cap. 613A) 指《殘疾人士院舍規例》(第 613 章，附屬法例 A)；(由 2023 年第 12 號第 3 條增補)

處所 (premises) 包括任何建築物、圍起的地方、場地或露天空地；

殘疾人士院舍 (residential care home for PWDs) 具有《第 613 章》第 2(1) 條所給予的涵義；(由 2023 年第 12 號第 3 條增補)

牌照、牌 (licence) 指根據第 8(2)(a) 條發出或根據第 9 條續期的牌照；

督察 (inspector) 指根據第 17 條委任為安老院督察的人；

署長 (Director) 指社會福利署署長；

管理人員 (management officer) 指符合以下說明的個人——

- (a) 就某獨資經營而言——屬該獨資經營的獨資經營人或關涉管理該獨資經營的人；
- (b) 就某法人團體而言——屬該法人團體的董事或關涉管理該法人團體的人；或
- (c) 就某合夥而言——屬該合夥的合夥人或關涉管理該合夥的人；(由 2023 年第 12 號第 3 條增補)

營辦人 (operator) 就某安老院而言，指持有就該安老院發出的牌照的人；(由 2023 年第 12 號第 3 條增補)

關鍵日期 (material date) 指《2023 年院舍法例 (雜項修訂) 條例》(2023 年第 12 號) 於憲報刊登的日期 * 的首個周年日。(由 2023 年第 12 號第 3 條增補)

(由 2011 年第 12 號第 33 條修訂；由 2023 年第 12 號第 3 條修訂)

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inspector (督察) means a person appointed under section 17 to be an inspector of residential care homes;

licence (牌照、牌) means a licence issued under section 8(2)(a) or renewed under section 9;

management officer (管理人員) means—

- (a) in relation to a sole proprietorship—an individual who is the sole proprietor or is concerned in the management of the sole proprietorship;
- (b) in relation to a body corporate—an individual who is a director of the body corporate or is concerned in its management; or
- (c) in relation to a partnership—an individual who is a partner in the partnership or is concerned in its management; (Added 12 of 2023 s. 3)

material date (關鍵日期) means the 1st anniversary of the date on which the Residential Care Homes Legislation (Miscellaneous Amendments) Ordinance 2023 (12 of 2023) is published in the Gazette*; (Added 12 of 2023 s. 3)

operator (營辦人), in relation to a residential care home, means a person who holds a licence issued in respect of the residential care home; (Added 12 of 2023 s. 3)

premises (處所) includes any building, enclosure, ground or open air space;

residential care home (安老院) means any premises at which more than 5 persons who have attained the age of 60 years are habitually received for the purposes of care while resident therein; (Amended 12 of 2023 s. 3)

residential care home for PWDs (殘疾人士院舍) has the meaning given by section 2(1) of Cap. 613; (Added 12 of 2023 s. 3)

responsible person (負責人), in relation to a residential care home, means a person who—

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- (2) 為免生疑問，在本條例中，提述本條例，即包括根據本條例訂立的附屬法例。(由 2023 年第 12 號第 3 條增補)

編輯附註：

* 憲報刊登日期：2023 年 6 月 16 日。

3. 適用範圍

- (1) 本條例不適用於 ——
- (a) 由 ——
 - (i) 政府；
 - (ii) 房屋委員會，
經辦及控制的安老院；
 - (b) 純粹用於或擬純粹用於治療需接受治療的人的安老院；
 - (ba) 《藥物倚賴者治療康復中心（發牌）條例》（第 566 章）第 2 條所界定的治療中心；或（由 2023 年第 12 號第 4 條增補）
 - (c) 由署長藉刊登於憲報的命令豁免的任何安老院或任何種類的安老院。
- (2) 根據第 (1)(c) 款發出的命令可指明有關的豁免 ——
- (a) 所受的規限條件；
 - (b) 所受的地區限制；

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- (a) has become the responsible person of the residential care home under section 11A(2), 11B(2) or 11I(4); and
- (b) has not ceased to be such a responsible person under section 11F(5), 11G(1) or 11H(4). (*Added 12 of 2023 s. 3*)

(Amended 12 of 2011 s. 33; 12 of 2023 s. 3)

- (2) To avoid doubt, in this Ordinance, a reference to this Ordinance includes any subsidiary legislation made under this Ordinance. (*Added 12 of 2023 s. 3*)

Editorial Note:

* Date of publication in the Gazette: 16 June 2023.

3. Application

- (1) This Ordinance does not apply to— (*Amended 12 of 2023 s. 4*)
- (a) any residential care home maintained and controlled by—
 - (i) the Government;
 - (ii) the Housing Authority;
 - (b) any residential care home used or intended for use solely for the purpose of the medical treatment of persons requiring medical treatment;
 - (ba) a treatment centre as defined by section 2 of the Drug Dependent Persons Treatment and Rehabilitation Centres (Licensing) Ordinance (Cap. 566); or (*Added 12 of 2023 s. 4*)
 - (c) any residential care home or type or description of residential care home excluded by the Director by order published in the Gazette.
- (2) An order under subsection (1)(c) may—

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- (c) 有效的期間；或
- (d) 只局部適用於某情況。
- (3) 第 (1)(c) 款所指的命令是附屬法例。(由 2023 年第 12 號第 4 條增補)

4. 署長職能的履行

(由 2011 年第 12 號第 34 條修訂)

- (1) 任何社會福利署副署長可履行本條例任何條文所委予署長的職能。(由 2011 年第 12 號第 34 條修訂)
- (2) 署長可授權任何公職人員履行本條例任何條文所委予署長的職能。
- (3) 如本款適用於某人，而該人如在根據本條例履行(或其意是履行)任何職能的過程中，以真誠行事而作出或沒有作出任何事情，則無需就作出或沒有作出該事情而負上任何個人民事法律責任。(由 2011 年第 12 號第 34 條增補)
- (4) 第 (3) 款適用於——
 - (a) 署長；
 - (b) 任何社會福利署副署長；及
 - (c) 根據第 (2) 款獲授權的任何公職人員。(由 2011 年第 12 號第 34 條增補)
- (5) 第 (3) 款所賦予的保障，並不影響政府須就有關作為或不作為而承擔的任何法律責任。(由 2011 年第 12 號第 34 條增補)

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- (a) be made subject to such conditions;
- (b) be made subject to such geographical limitations;
- (c) have effect for such period; or
- (d) have such partial application, as may be indicated in the order.
- (3) An order under subsection (1)(c) is subsidiary legislation. (Added 12 of 2023 s. 4)

4. Exercise of Director's functions

(Amended 12 of 2011 s.34)

- (1) A Deputy Director of Social Welfare may exercise any function of the Director under any provision of this Ordinance. (Amended 12 of 2011 s. 34)
- (2) The Director may authorize any public officer to exercise any function of the Director under any provision of this Ordinance.
- (3) A person to whom this subsection applies is not personally liable for any civil liability in respect of anything done or omitted to be done by the person in good faith in the exercise of a function or purported exercise of a function under this Ordinance. (Added 12 of 2011 s. 34)
- (4) Subsection (3) applies to—
 - (a) the Director;
 - (b) any Deputy Director of Social Welfare; and
 - (c) any public officer authorized under subsection (2). (Added 12 of 2011 s. 34)
- (5) The protection conferred by subsection (3) does not affect any liability of the Government for the act or omission. (Added 12 of 2011 s. 34)

5. 行政長官發出指示的權力

- (1) 行政長官可就署長、任何社會福利署副署長或任何其他公職人員根據本條例履行其各別職能的事宜，向署長、該社會福利署副署長及該公職人員發出行政長官認為適當的任何指示，該等指示可以是一般性的，或是就個別情況發出的。（由 2011 年第 12 號第 35 條修訂）
- (2) 凡行政長官根據第 (1) 款向任何人發出指示，該人在根據本條例履行其職能時，須遵從該項指示。

(由 1999 年第 17 號第 3 條修訂)

5. Power of Chief Executive to give directions

- (1) The Chief Executive may give to the Director, any Deputy Director of Social Welfare or to any other public officer any directions that the Chief Executive thinks fit with respect to the exercise of their respective functions under this Ordinance, either generally or in any particular case.
- (2) A person to whom a direction is given by the Chief Executive under subsection (1) must, in the exercise of the person's functions under this Ordinance, comply with that direction.

(Amended 17 of 1999 s. 3; 12 of 2011 s. 35)

第 2 部

對營辦安老院的限制

(由 2023 年第 12 號第 23 條修訂)

6. 安老院須領有牌照

(由 2023 年第 12 號第 5 條修訂)

- (1) 凡任何人營辦、料理、管理或以其他方式控制任何安老院，而當時並沒有牌照就該安老院而有效，該人即屬犯罪，可處罰款 \$1,000,000 及監禁 2 年，並可就該罪行持續的每一日另處罰款 \$10,000。 (由 2023 年第 12 號第 5 條修訂)
- (2) (由 2023 年第 12 號第 5 條廢除)
- (3) 即使被控犯第 (1) 款所訂罪行的人，證明該人不知道在有關時間沒有牌照就有關安老院而有效，亦不構成該人的免責辯護。 (由 2023 年第 12 號第 5 條代替)
- (4) (如有關安老院亦屬殘疾人士院舍) 即使被控犯第 (1) 款所訂罪行的人，證明該人不知道在有關時間沒有根據《第 613 章》發出的牌照或豁免證明書就有關安老院而有效，亦不構成該人的免責辯護。 (由 2011 年第 12 號第 36 條增補。由 2023 年第 12 號第 5 條修訂)

6A. 若干殘疾人士院舍不受第 6 條規限

如任何安老院亦屬殘疾人士院舍，而有根據《第 613 章》發出的牌照或豁免證明書就該安老院而有效，則第 6 條不適用於該安老院。

Part 2

Restriction on Operation of Residential Care Homes

6. Residential care homes must be licensed

(Amended 12 of 2023 s. 5)

- (1) Any person who operates, keeps, manages or otherwise has control of a residential care home while no licence is in force in respect of the residential care home commits an offence and is liable to a fine of \$1,000,000 and imprisonment for 2 years and to a fine of \$10,000 for each day during which the offence continues. (Amended 12 of 2023 s. 5)
- (2) (Repealed 12 of 2023 s. 5)
- (3) It is not a defence for a person charged with an offence under subsection (1) to show that the person did not know that at the relevant time no licence was in force in respect of the residential care home. (Replaced 12 of 2023 s. 5)
- (4) It is not a defence for a person charged with an offence under subsection (1) to show that, if the residential care home is also a residential care home for PWDs, the person did not know that at the relevant time neither a licence nor a certificate of exemption issued under Cap. 613 was in force in respect of the residential care home. (Added 12 of 2011 s. 36. Amended 12 of 2023 s. 5)

6A. Certain residential care homes for PWDs excepted from application of section 6

Section 6 does not apply to a residential care home that is also a residential care home for PWDs if a licence or certificate of

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(由 2011 年第 12 號第 37 條增補。由 2023 年第 12 號第 6 條修訂)

6B. 若干護養院不受第 6 條規限

任何安老院如亦屬《私營醫療機構條例》(第 633 章)第 124 條界定的**附表護養院**，並正根據該條例第 128 條獲有效豁免，第 6 條不適用於該安老院。

(由 2018 年第 34 號第 143 條及 2018 年第 5 號編輯修訂紀錄增補)

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exemption issued under Cap. 613 is in force in respect of the residential care home.

(Added 12 of 2011 s. 37. Amended 12 of 2023 s. 6)

6B. Certain nursing homes excepted from application of section 6

Section 6 does not apply to a residential care home that is also a **scheduled nursing home** (as defined by section 124 of the Private Healthcare Facilities Ordinance (Cap. 633)) if an exemption granted under section 128 of that Ordinance is in force in respect of the residential care home.

(Added 34 of 2018 s. 143 and E.R. 5 of 2018)

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第 3 部

(第 3 部由 2023 年第 12 號第 7 條廢除)

7. (由 2023 年第 12 號第 7 條廢除)

Part 3

(Part 3 Repealed 12 of 2023 s. 7)

7. (Repealed 12 of 2023 s. 7)

第 4 部

牌照

第 1 分部 —— 牌照申請

(由 2023 年第 12 號第 8 條增補)

8. 牌照的申請及發出

- (1) 任何人就一所安老院申請牌照，須 ——
 - (a) 按署長指定的格式及方式向署長提出申請；及
 - (b) 附上署長所要求的資料、詳情及圖則。
- (2) 署長收到根據第 (1) 款提出的申請後，須就申請作出以下決定 ——
 - (a) 向申請人發出以申請人為營辦人的牌照，並就該安老院的營辦、料理、管理或其他控制事宜，訂下署長認為適當的條件；或 (由 2023 年第 12 號第 9 及 23 條修訂)
 - (b) 拒絕發出牌照予申請人。
- (3) 署長如覺得有下列情況，可拒絕發出牌照予申請人 ——
 - (a) 申請人或申請人擬僱用在有關安老院工作的任何人並不是營辦、參與管理或受僱在該安老院工作的適當人選；(由 2011 年第 12 號第 38 條修訂；由 2023 年第 12 號第 9 及 23 條修訂)
 - (ab) 申請人不遵從第 11A(1) 條；(由 2023 年第 12 號第 9 條增補)
 - (ac) 根據第 11A(1) 條獲提名擔任有關安老院負責人的，並不是執行第 11D 條所述職務的適當人選；(由 2023 年第 12 號第 9 條增補)

Part 4

Licences

Division 1—Licence Applications

(Added 12 of 2023 s. 8)

8. Application for and issue of licence

- (1) An application by a person for a licence in respect of a residential care home must be— (Amended 12 of 2023 s. 9)
 - (a) made to the Director in such form and manner as the Director may determine; and
 - (b) accompanied by such information, particulars and plans as the Director may require.
- (2) The Director must, on receipt of an application under subsection (1), determine the application— (Amended 12 of 2023 s. 9)
 - (a) by issuing to and in the name of the applicant, a licence imposing such conditions, in relation to the operation, keeping, management or other control of the residential care home, as the Director thinks fit; or
 - (b) by refusing to issue a licence to the applicant.
- (3) The Director may refuse to issue a licence to the applicant if it appears to the Director— (Amended 12 of 2023 s. 9)
 - (a) that the applicant or any person the applicant proposes to employ at the residential care home is not a fit and proper person to operate, take part in the management of or be employed at the residential care home; (Amended 12 of 2011 s. 38)

- (b) 將用作有關安老院的處所，因為關乎地點、出入方法、設計、建造、大小、建築物種類、人手或設備的理由，不適合用作安老院；
- (c) 該等處所不符合 ——
 - (i) 根據《建築物條例》(第 123 章) 第 38 條訂立的規例；
 - (ii) 由消防處處長根據《建築物條例》(第 123 章) 第 16(1)(b) 條印發的實務守則；
 - (iii) 由署長根據第 22 條發出的實務守則；或
 - (iv) 根據第 23 條訂立的規例，
 所列的關乎設計、建造、防火、健康、衛生及安全的規定；(由 2023 年第 12 號第 9 條修訂)
- (d) 有關安老院擬採用的名稱並不適合，或與以下名稱相同或相似 ——
 - (i) 某安老院的名稱，而有牌照就該安老院而有效，或其牌照被暫時吊銷、交回或撤銷；(由 2023 年第 12 號第 9 條代替)
 - (ii) 某殘疾人士院舍的名稱，而有根據《第 613 章》發出的牌照就該院舍而有效，或其牌照被暫時吊銷、交回或撤銷；或(由 2023 年第 12 號第 9 條代替)
 - (iii) 某殘疾人士院舍的名稱，而有根據《第 613 章》發出的豁免證明書就該院舍而有效。(由 2023 年第 12 號第 9 條代替)
 - (iv) (由 2023 年第 12 號第 9 條廢除)
- (4) 根據本條發出的牌照 ——
 - (a) 須由署長指定其格式；
 - (b) 如受根據第 (2)(a) 款所訂的條件規限，則其上須批註有該等條件；及

- (ab) that the applicant does not comply with section 11A(1); *(Added 12 of 2023 s. 9)*
- (ac) that the person proposed to be the responsible person of the residential care home under section 11A(1) is not a fit and proper person to perform the duties mentioned in section 11D; *(Added 12 of 2023 s. 9)*
- (b) that for reasons connected with the situation, means of ingress and egress, design, construction, size, type of building, staffing or equipment, the premises to be used for the residential care home are not fit to be used for the purposes of a residential care home;
- (c) that such premises do not comply with any requirements relating to design, construction, fire precautions, health, sanitation and safety set out in— *(Amended 12 of 2023 s. 9)*
 - (i) any regulation made under section 38 of the Buildings Ordinance (Cap. 123);
 - (ii) any Code of Practice published by the Director of Fire Services under section 16(1)(b) of the Buildings Ordinance (Cap. 123);
 - (iii) any Code of Practice issued by the Director under section 22; or
 - (iv) any regulation made under section 23;
- (d) that the proposed name of the residential care home is unsuitable or is the same as or similar to—
 - (i) the name of a residential care home in respect of which a licence is in force or has been suspended, surrendered or cancelled; *(Replaced 12 of 2023 s. 9)*
 - (ii) the name of a residential care home for PWDs in respect of which a licence issued under Cap. 613

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- (c) 須批准獲發牌照的人營辦、料理、管理或以其他方式控制一所屬為施行本條而訂明的種類的安老院，期限為 36 個月或牌照指明的較短期間。(由 2023 年第 12 號第 23 條修訂)
- (4A) 如有根據《第 613 章》發出的牌照(原來的牌照)在當其時就有關安老院而有效，申請人獲署長通知第(1)款所指的申請獲批准後，須在牌照根據本條發出的同時，向署長交回原來的牌照。(由 2011 年第 12 號第 38 條增補。由 2023 年第 12 號第 9 條修訂)
- (5) 一份看來是經由署長簽署核證的牌照或其副本，即為其內所述事項在該牌照或副本日期當日的情況的證據，並須接受為證據而無須進一步證明。
- (6) 凡有一份看來是經由署長簽署核證的證明書，證明一所安老院已獲發牌或未獲發牌，則該證明書即為其內所述事項在該證明書日期當日的情況的證據，並須接受為證據而無須進一步證明。

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- is in force or has been suspended, surrendered or cancelled; or (*Replaced 12 of 2023 s. 9*)
- (iii) the name of a residential care home for PWDs in respect of which a certificate of exemption issued under Cap. 613 is in force. (*Replaced 12 of 2023 s. 9*)
- (iv) (*Repealed 12 of 2023 s. 9*)
- (4) A licence issued under this section must— (*Amended 12 of 2023 s. 9*)
- (a) be in such form as the Director may determine;
- (b) be endorsed with the conditions, if any, imposed under subsection (2)(a); and
- (c) authorize the person in whose name it is issued to operate, keep, manage or otherwise have control of a residential care home of a type prescribed for the purposes of this section, for a period of 36 months or such lesser period as may be indicated therein.
- (4A) If a licence issued under Cap. 613 is for the time being in force in respect of the residential care home, the applicant must, after being advised by the Director that the application under subsection (1) is successful, surrender the first-mentioned licence to the Director on the issue of a licence under this section. (*Added 12 of 2011 s. 38*)
- (5) A licence or a copy thereof purporting to be certified under the hand of the Director is evidence of the facts stated therein as at the date of such licence or such copy thereof and is to be received in evidence without further proof.
- (6) A certificate purporting to be certified under the hand of the Director that a residential care home is licensed or is not licensed is evidence of the facts stated therein as at the date

8A. 關於牌照申請人是否適當人選的規定

署長為第 8(3)(a) 條的目的，在考慮某申請人是否營辦安老院的適當人選時，須顧及一切有關事宜，包括 ——

- (a) 如該申請人是獨資經營人 —— 附表 1 第 1 條所列的事宜；
- (b) 如該申請人是法人團體 —— 附表 1 第 2 條所列的事宜；或
- (c) 如該申請人是合夥 —— 附表 1 第 3 條所列的事宜。

(由 2023 年第 12 號第 10 條增補)

9. 牌照續期

- (1) 安老院的營辦人可在牌照期滿前，申請將牌照續期不超過 36 個月。*(由 2023 年第 12 號第 11 條修訂)*
- (2) 牌照續期的申請，須 ——
 - (a) 在牌照期滿前 4 個月起至期滿前 2 個月止的期間內，或在署長以書面准許的在牌照期滿前的其他期間內；
 - (b) 按署長指定的格式及方式，向署長提出。
- (3) 署長可就獲續期的牌照，另訂有關該安老院的營辦、料理、管理或其他控制事宜的條件，以補充或取代先前根據第 8(2)(a) 條訂下的條件。*(由 2023 年第 12 號第 11 及 23 條修訂)*
- (4) 凡牌照在原來有效期屆滿前根據本條續期，續期在原來有效期屆滿之日的翌日生效。

of such certificate and is to be received in evidence without further proof.

(Amended 12 of 2023 s. 9)

8A. Fit and proper requirement for licence applicant

For section 8(3)(a), in considering whether an applicant is a fit and proper person to operate a residential care home, the Director must have regard to all relevant matters, including—

- (a) if the applicant is a sole proprietor—the matters set out in section 1 of Schedule 1;
- (b) if the applicant is a body corporate—the matters set out in section 2 of Schedule 1; or
- (c) if the applicant is a partnership—the matters set out in section 3 of Schedule 1.

(Added 12 of 2023 s. 10)

9. Renewal of licence

- (1) The operator of a residential care home may, before the expiration of the licence, apply for the licence to be renewed for a period of not more than 36 months.
- (2) An application for renewal of a licence must be made to the Director—*(Amended 12 of 2023 s. 11)*
 - (a) not more than 4 months and not less than 2 months prior to the expiration of the licence or within such other period prior to the expiration thereof as the Director may in writing permit;
 - (b) in such form and manner as the Director may determine.
- (3) The Director may in respect of the renewed licence impose any condition, in relation to the operation, keeping, management or other control of the residential care home, in

- (5) 除第 (5A) 款另有規定外，凡安老院的營辦人根據本條申請將牌照續期，而該牌照若無本款規定本應在該申請有決定前屆滿，則該牌照在署長作出決定前維持有效。*(由 2023 年第 12 號第 11 條修訂)*
- (5A) 如有以下情況，第 (5) 款不適用 ——
- (a) 有關申請被撤回；或
 - (b) 有關牌照根據第 10 條被撤銷或暫時吊銷。*(由 2023 年第 12 號第 11 條增補)*
- (6) 根據本條獲批准的牌照續期，於該牌照若無第 (5) 款規定本應期滿之日的翌日生效，續期後的有效期間為 36 個月或署長在續期時指明的較短期間。

10. 撤銷及暫時吊銷牌照、拒絕續期、修訂或更改條件

- (1) 署長可基於下列理由撤銷或暫時吊銷就安老院發出的牌照，或拒絕將該牌照續期，或修訂或更改該牌照的任何條件 —— *(由 2011 年第 12 號第 39 條修訂)*
- (a) 有第 8(3)(a)、(b) 或 (c) 條所指明的可令署長有權拒絕就該安老院發出牌照的情況；
 - (ab) 該安老院的營辦人沒有遵從第 11B(1)、11F(4)、11G(2)、11H 或 11J 條；*(由 2023 年第 12 號第 12 條增補)*

- addition to or instead of any condition previously imposed under section 8(2)(a).
- (4) A renewal of a licence under this section before the expiration of the licence takes effect on the day following the day of its expiration.
- (5) Subject to subsection (5A), any licence in respect of which an application for renewal is made under this section and which, but for this subsection, would have expired before the determination of the application remains in effect until the determination by the Director of the application.
- (5A) Subsection (5) does not apply if—
- (a) the application is withdrawn; or
 - (b) the licence is cancelled or suspended under section 10.
(Added 12 of 2023 s. 11)
- (6) A renewal of a licence granted under this section takes effect on the day following the day upon which the licence would have expired but for subsection (5), for a period of 36 months or such lesser period as may be indicated by the Director at the time of renewal.

*(Amended 12 of 2023 s. 11)***10. Cancellation and suspension of licence or refusal to renew and amendment or variation of conditions**

- (1) The Director may cancel, suspend or refuse to renew the licence in respect of a residential care home, or amend or vary any condition of the licence— *(Amended 12 of 2011 s. 39)*
- (a) on any ground specified in section 8(3)(a), (b) or (c) which would have entitled the Director to refuse an application for the licensing of that residential care home;

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- (ac) 署長並不信納根據第 11B(1)、11F(4)、11G(2) 或 11H(3) 條獲提名擔任該安老院負責人的人，是執行第 11D 條所述職務的適當人選；(由 2023 年第 12 號第 12 條增補)
- (b) 有下列情況 ——
 - (i) 營辦人被裁定犯了本條例所訂罪行或其他可公訴罪行；或 (由 2011 年第 12 號第 39 條修訂)
 - (ii) 任何其他人曾就該安老院被裁定犯了本條例所訂罪行或其他可公訴罪行；
- (c) 就該安老院或其住客 ——
 - (i) 有人曾經或正在違反本條例的規定；或
 - (ii) 營辦人曾不遵從根據本條例提出或發出的要求、命令或指示；
- (d) 營辦人曾經或正在不遵從有關牌照的條件；
- (e) 署長覺得 ——
 - (i) 該安老院已停止以安老院形式營辦或已不再存在；
 - (ii) 有關營辦人已停止營辦、料理、管理或以其他方式控制該安老院；或
 - (iii) 該安老院自獲得發牌日期起，曾在任何時候以違反公眾利益的方式營辦。(由 2023 年第 12 號第 12 及 23 條修訂)
- (2) 凡有人根據第 12 條提出上訴，反對署長根據第 (1) 款作出的決定 (拒絕牌照續期的決定除外)，該決定即自該上訴提出之日起暫緩生效，直至該上訴獲處理完畢、被撤回或被放棄為止，但如有以下情況，則屬例外 ——
 - (a) 署長認為該決定暫緩生效會違反公眾利益；及
 - (b) 有關決定的命令，載有述明此意的陳述。(由 2011 年第 12 號第 39 條增補)

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- (ab) on the ground that the operator of the residential care home fails to comply with section 11B(1), 11F(4), 11G(2), 11H or 11J; (Added 12 of 2023 s. 12)
- (ac) on the ground that the Director is not satisfied that the person proposed to be the responsible person of the residential care home under section 11B(1), 11F(4), 11G(2) or 11H(3) is a fit and proper person to perform the duties mentioned in section 11D; (Added 12 of 2023 s. 12)
- (b) on the ground that—
 - (i) the operator has been convicted of an offence against this Ordinance or an indictable offence; or (Amended 12 of 2011 s. 39)
 - (ii) any other person has been convicted of an offence against this Ordinance or an indictable offence in respect of that residential care home;
- (c) on the ground that, in respect of that residential care home or the residents thereof—
 - (i) any of the provisions of this Ordinance have been or are being contravened; or
 - (ii) any requirement, order or direction made or given under this Ordinance has not been complied with by the operator;
- (d) on the ground that any condition of the licence has not been or is not being complied with by the operator;
- (e) on the ground that it appears to the Director that—
 - (i) that residential care home has ceased to be operated as such or to exist;

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- (3) 凡有人根據第 12 條提出上訴，反對署長根據第 (1) 款拒絕牌照續期的決定，而該牌照若無本款規定本應在該上訴獲定奪前期滿，則該牌照維持有效，直至該上訴獲處理完畢、被撤回或被放棄為止，但如有以下情況，則屬例外 ——
- (a) 署長認為該牌照維持有效會違反公眾利益；及
- (b) 有關決定的命令，載有述明此意的陳述。 (由 2011 年第 12 號第 39 條增補)
- (4) 如有牌照在當其時就一所安老院而有效，而根據《第 613 章》提出的要求就同一院舍處所發出牌照的申請獲批准，署長須在緊接牌照根據該條例第 7 條發出之前，撤銷根據本條例發出的牌照。 (由 2011 年第 12 號第 39 條增補。由 2023 年第 12 號第 12 條修訂)

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- (ii) the operator has ceased to operate, keep, manage or otherwise have control of that residential care home; or
- (iii) that residential care home has, on any occasion since the date on which it was licensed, been operated in a manner contrary to the public interest. (*Amended 12 of 2023 s. 12*)
- (2) A decision under subsection (1) (other than a decision to refuse to renew a licence) that is appealed against under section 12 is suspended in its operation as from the day on which the appeal is made until the appeal is disposed of, withdrawn or abandoned unless—
- (a) the suspension would, in the opinion of the Director, be contrary to the public interest; and
- (b) the order on the decision contains a statement to that effect. (*Added 12 of 2011 s. 39*)
- (3) If a decision to refuse to renew a licence under subsection (1) is appealed against under section 12 and the licence would, but for this subsection, expire before the determination of the appeal, the licence remains in force until the appeal is disposed of, withdrawn or abandoned unless—
- (a) it would, in the opinion of the Director, be contrary to the public interest for the licence to remain in force; and
- (b) the order on the decision contains a statement to that effect. (*Added 12 of 2011 s. 39*)
- (4) If a licence is for the time being in force in respect of a residential care home and an application for the issue of a licence in respect of the same residential care home premises is successful under Cap. 613, the Director must cancel the licence issued under this Ordinance immediately before issuing a licence under section 7 of that Ordinance. (*Added 12 of 2011 s. 39. Amended 12 of 2023 s. 12*)

11. 拒絕發出牌照或將牌照續期的通知及撤銷或暫時吊銷牌照的通知等*(由 2023 年第 12 號第 13 條修訂)*

- (1) 署長在拒絕要求發出牌照或將牌照續期的申請之前，或在行使第 10(1) 條所指的權力之前，須將其意向通知有關申請人或有關安老院的營辦人，通知內須說明 —— *(由 2023 年第 12 號第 13 條修訂)*
 - (a) 署長打算以何理由拒絕該申請或行使該條所指的權力；及
 - (b) 該申請人或營辦人可向署長作出書面申述。
- (2) 署長如決定拒絕發牌申請或將牌照續期，或決定行使第 10(1) 條所指的權力，須作出書面命令述明其決定，並妥為註明日期及簽署。
- (3) 署長須將一份第 (2) 款所指的書面命令面交或以掛號郵遞送交有關申請人或營辦人，送交地址以該申請人或營辦人最後為署長所知的地址為準。

*(由 2011 年第 12 號第 40 條代替。由 2023 年第 12 號第 13 條修訂)***第 2 分部 —— 負責人***(第 2 分部由 2023 年第 12 號第 14 條增補)***11A. 牌照申請人須提名負責人**

- (1) 對於根據第 8 條就某安老院提出的牌照申請，有關申請人須提名該申請人的一名管理人員 (**獲提名負責人**)，擔任該安老院的負責人。

11. Notice of refusal to issue or renew licence and of cancellation or suspension, etc.*(Amended 12 of 2023 s. 13)*

- (1) The Director must, before refusing an application for a licence or for the renewal of a licence, or before exercising the power under section 10(1), give notice to the applicant or the operator of a residential care home of the intention to do so— *(Amended 12 of 2023 s. 13)*
 - (a) stating the grounds on which the Director intends to refuse the application or exercise the power under that section; and
 - (b) stating that the applicant or the operator may make written representations to the Director.
- (2) If the Director decides to refuse an application for a licence or for the renewal of a licence, or if the Director decides to exercise the power under section 10(1), the Director must make a written order, properly dated and signed, to that effect.
- (3) The Director must send a copy of the written order under subsection (2) to the applicant or the operator by delivering it personally or by registered post to the applicant or the operator, at the address last known to the Director.

*(Replaced 12 of 2011 s. 40. Amended 12 of 2023 s. 13)***Division 2—Responsible Persons***(Division 2 added 12 of 2023 s. 14)***11A. Licence applicant to propose responsible person**

- (1) For an application for a licence in respect of a residential care home under section 8, the applicant must propose a management officer of the applicant (***proposed responsible***

- (2) 如署長應申請就有關安老院發出牌照，則在有關牌照生效當日，獲提名負責人即成為該安老院的負責人。
- (3) 署長發出牌照時，須 ——
 - (a) 以書面通知，通知有關申請人第 (2) 款的效力；及
 - (b) 將通知的副本 ——
 - (i) 以面交方式送交有關獲提名負責人；或
 - (ii) 以掛號郵遞，寄往第 11C(a) 條所述的有關獲提名負責人的通訊地址，以送交該人。

11B. 某些營辦人在續期申請時須提名負責人

- (1) 對於根據第 9 條就某安老院提出的牌照續期申請，如有以下情況，則該安老院的營辦人須提名該營辦人的一名管理人員 (**獲提名負責人**)，擔任該安老院的負責人 ——
 - (a) 該申請是在關鍵日期當日或之後，首次就該牌照續期提出的申請；及
 - (b) 該牌照 ——
 - (i) 在緊接關鍵日期之前有效；或
 - (ii) 是應在關鍵日期之前提出的申請，在該日期當日或之後發出的。
- (2) 如署長應申請將牌照續期，則在以下日子，獲提名負責人即成為有關安老院的負責人 ——
 - (a) 如第 9(4) 條適用 —— 續期生效當日；或
 - (b) 如第 9(5) 條適用 —— 在對申請作出決定之日的翌日。

person) to be the responsible person of the residential care home.

- (2) If, on the application, the Director issues a licence in respect of the residential care home, the proposed responsible person becomes the responsible person of the residential care home on the day on which the licence takes effect.
- (3) On issuing the licence, the Director must—
 - (a) by a written notice, inform the applicant of the effect of subsection (2); and
 - (b) send a copy of the notice to the proposed responsible person—
 - (i) by delivering it personally to the person; or
 - (ii) by registered post to the person at the person's correspondence address mentioned in section 11C(a).

11B. Certain operators to propose responsible person on renewal application

- (1) For an application for the renewal of a licence in respect of a residential care home under section 9, the operator of the residential care home must propose a management officer of the operator (**proposed responsible person**) to be the responsible person of the residential care home if—
 - (a) the application is the first application for the renewal of the licence made on or after the material date; and
 - (b) the licence—
 - (i) was in force immediately before the material date; or
 - (ii) is issued on or after the material date on an application made before that date.

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- (3) 署長將牌照續期時，須 ——
- (a) 以書面通知，通知有關營辦人第 (2) 款的效力；及
 - (b) 將通知的副本 ——
 - (i) 以面交方式送交有關獲提名負責人；或
 - (ii) 以掛號郵遞，寄往第 11C(a) 條所述的有關獲提名負責人的通訊地址，以送交該人。

11C. 如何提名負責人

如某申請人或營辦人按本分部規定，須提名該申請人或營辦人的一名管理人員 (**獲提名負責人**)，擔任安老院的負責人，該提名須 ——

- (a) 載有獲提名負責人的姓名及通訊地址；
- (b) 載有獲提名負責人作出的陳述，表示同意擔任該安老院的負責人；
- (c) 載有署長指明的任何其他資料；及
- (d) 以署長指明的格式及方式作出。

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- (2) If, on the application, the Director renews the licence, the proposed responsible person becomes the responsible person of the residential care home—
- (a) if section 9(4) applies—on the day on which the renewal takes effect; or
 - (b) if section 9(5) applies—on the day after the date on which the application is determined.
- (3) On renewing the licence, the Director must—
- (a) by a written notice, inform the operator of the effect of subsection (2); and
 - (b) send a copy of the notice to the proposed responsible person—
 - (i) by delivering it personally to the person; or
 - (ii) by registered post to the person at the person's correspondence address mentioned in section 11C(a).

11C. How to propose responsible person

If an applicant or operator is required under this Division to propose a management officer of the applicant or operator (**proposed responsible person**) to be the responsible person of a residential care home, the proposal must—

- (a) contain the name and correspondence address of the proposed responsible person;
- (b) contain a statement made by the proposed responsible person indicating his or her consent to be the responsible person of the residential care home;
- (c) contain any other information specified by the Director; and

11D. 負責人的職務

安老院負責人的職務是 ——

- (a) 確保該安老院的營辦、料理、管理及控制有足夠監管，以保障該安老院住客的權益及安全；及
- (b) 確保該安老院的營辦符合本條例。

11E. 關於負責人是否適當人選的規定

署長為第 8(3)(ac)、10(1)(ac)、11F(1) 及 11I(1)(b) 條的目的，在考慮某人是否執行第 11D 條所述職務的適當人選時，須顧及一切有關事宜，包括附表 2 所列的事宜。

11F. 按署長要求更換負責人

- (1) 署長如信納某安老院的負責人有以下情況 ——
 - (a) 該人不再是執行第 11D 條所述職務的適當人選；或
 - (b) 該人沒有執行任何該等職務，
 則署長可藉給予該安老院的營辦人書面通知，作出該負責人（**離任負責人**）停任該安老院的負責人的指示。
- (2) 有關通知須 ——
 - (a) 說明 ——
 - (i) 署長信納第 (1)(a) 或 (b) 款所述的事宜；及
 - (ii) 離任負責人在該通知的日期，即停任有關安老院的負責人；及

- (d) be made in the form and manner specified by the Director.

11D. Duties of responsible person

The duties of a responsible person of a residential care home are—

- (a) to ensure adequate supervision of the operation, keeping, management and control of the residential care home for protecting the interest and safety of the residents of the residential care home; and
- (b) to ensure that the residential care home is operated in compliance with this Ordinance.

11E. Fit and proper requirement for responsible person

For sections 8(3)(ac), 10(1)(ac), 11F(1) and 11I(1)(b), in considering whether a person is a fit and proper person to perform the duties mentioned in section 11D, the Director must have regard to all relevant matters, including the matters set out in Schedule 2.

11F. Change of responsible person as required by Director

- (1) The Director may, by a written notice given to the operator of a residential care home, direct that the responsible person of the residential care home (**outgoing responsible person**) cease to be such a responsible person if satisfied that the person—
 - (a) is no longer a fit and proper person to perform the duties mentioned in section 11D; or
 - (b) has failed to perform any of the duties.
- (2) The notice must—
 - (a) state that—
 - (i) the Director is satisfied of the matter mentioned in subsection (1)(a) or (b); and

- (b) 要求有關營辦人提名該營辦人的另一名管理人員，擔任該安老院的負責人。
- (3) 署長亦須將有關通知的副本，送交離任負責人。
- (4) 有關營辦人須在有關通知的日期後的 7 日內（或在署長准許的較長期間內），提名該營辦人的另一名管理人員，擔任有關安老院的負責人。
- (5) 離任負責人在有關通知的日期，即停任有關安老院的負責人。

11G. 因去世、無行為能力等而更換負責人

- (1) 任何安老院的負責人如有以下情況，即停任上述負責人——
 - (a) 去世；
 - (b) 因精神或身體上無行為能力，而無能力處理和管理其財產及事務；
 - (c) 停任該安老院營辦人的管理人員；或
 - (d) 給予該安老院的營辦人及署長書面通知，撤回該人就擔任該安老院負責人所給予的同意。
- (2) 如發生第 (1)(a)、(b)、(c) 或 (d) 款描述的事件 (**有關事件**)，則有關安老院的營辦人，須在第 (3) 款指明的限期內——
 - (a) 以署長指明的表格，通知署長有關事件；及
 - (b) 提名該營辦人的另一名管理人員，擔任該安老院的負責人。

- (ii) the outgoing responsible person ceases to be the responsible person of the residential care home on the date of the notice; and
- (b) require the operator to propose another management officer of the operator to be the responsible person of the residential care home.
- (3) The Director must also send a copy of the notice to the outgoing responsible person.
- (4) The operator must, within 7 days after the date of the notice or a longer period that the Director permits, propose another management officer of the operator to be the responsible person of the residential care home.
- (5) The outgoing responsible person ceases to be the responsible person of the residential care home on the date of the notice.

11G. Change of responsible person because of death, incapacity, etc.

- (1) The responsible person of a residential care home ceases to be such a responsible person when he or she—
 - (a) dies;
 - (b) becomes incapable of managing and administering his or her property and affairs because of mental or physical incapacity;
 - (c) ceases to be a management officer of the operator of the residential care home; or
 - (d) gives a written notice to the operator of the residential care home and the Director to withdraw his or her consent to be the responsible person of the residential care home.
- (2) If an event described in subsection (1)(a), (b), (c) or (d) (**relevant event**) occurs, the operator of the residential care home must, within the period specified in subsection (3)—

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- (3) 為第 (2) 款而指明的限期是 ——
- (a) 有關營辦人知悉有關事件的日期後的 7 日；或
 - (b) 署長准許的較長期間。

11H. 在其他情況下更換負責人

- (1) 任何安老院的營辦人，可在其他不屬第 11F 及 11G 條所列情況的情況下，藉給予署長書面通知，更換該安老院的負責人。
- (2) 有關通知須 ——
 - (a) 說明 ——
 - (i) 有關營辦人更換有關安老院的負責人的意向；及
 - (ii) 該安老院的負責人 (**離任負責人**) 將會停任上述負責人的日期 (**終止日期**)；
 - (b) 在終止日期前 14 日或之前給予；及
 - (c) 以署長指明的格式及方式給予。
- (3) 在給予通知時，有關營辦人亦須提名該營辦人的另一名管理人員，擔任有關安老院的負責人。
- (4) 離任負責人在終止日期，即停任有關安老院的負責人。

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- (a) inform the Director of the relevant event in the form specified by the Director; and
 - (b) propose another management officer of the operator to be the responsible person of the residential care home.
- (3) The period specified for subsection (2) is—
- (a) 7 days after the date on which the operator becomes aware of the relevant event; or
 - (b) a longer period that the Director permits.

11H. Change of responsible person in other circumstances

- (1) The operator of a residential care home may change the responsible person of the residential care home in circumstances other than those set out in sections 11F and 11G by giving a written notice to the Director.
- (2) The notice must—
 - (a) state—
 - (i) the operator's intention to change the responsible person of the residential care home; and
 - (ii) the date on which the responsible person of the residential care home (**outgoing responsible person**) will cease to be such a responsible person (**cessation date**);
 - (b) be given at least 14 days before the cessation date; and
 - (c) be given in the form and manner specified by the Director.
- (3) When giving the notice, the operator must also propose another management officer of the operator to be the responsible person of the residential care home.
- (4) The outgoing responsible person ceases to be the responsible person of the residential care home on the cessation date.

11I. 署長須指明成為負責人的日期

- (1) 如有以下情況，則本條適用 ——
 - (a) 某安老院的營辦人根據第 11F(4)、11G(2) 或 11H(3) 條，提名該營辦人的一名管理人員 (**獲提名負責人**) 擔任該安老院的負責人；及
 - (b) 署長信納獲提名負責人，是執行第 11D 條所述職務的適當人選。
- (2) 署長須以書面通知 ——
 - (a) 通知有關營辦人署長信納第 (1)(b) 款所述的事宜；及
 - (b) 指明獲提名負責人成為有關安老院的負責人的日期 (**指明日期**) (該日期須在通知日期之後)。
- (3) 署長亦須藉以下方式，將有關通知的副本 ——
 - (a) 以面交方式送交有關獲提名負責人；或
 - (b) 以掛號郵遞，寄往第 11C(a) 條所述的有關獲提名負責人的通訊地址，以送交該人。
- (4) 獲提名負責人在指明日期，即成為有關安老院的負責人。

第 3 分部 —— 申報規定*(第 3 分部由 2023 年第 12 號第 14 條增補)***11J. 營辦人須申報某些事件****11I. Director to specify date of becoming responsible person**

- (1) This section applies if—
 - (a) the operator of a residential care home proposes a management officer of the operator (**proposed responsible person**) to be the responsible person of the residential care home under section 11F(4), 11G(2) or 11H(3); and
 - (b) the Director is satisfied that the proposed responsible person is a fit and proper person to perform the duties mentioned in section 11D.
- (2) The Director must, by a written notice—
 - (a) inform the operator that the Director is satisfied of the matter mentioned in subsection (1)(b); and
 - (b) specify a date (being one after the date of the notice) on which the proposed responsible person becomes the responsible person of the residential care home (**specified date**).
- (3) The Director must also send a copy of the notice to the proposed responsible person—
 - (a) by delivering it personally to the person; or
 - (b) by registered post to the person at the person's correspondence address mentioned in section 11C(a).
- (4) The proposed responsible person becomes the responsible person of the residential care home on the specified date.

Division 3—Reporting Requirements*(Division 3 added 12 of 2023 s. 14)***11J. Operator to report certain events**

- (1) 如發生第 (3) 款指明的任何事件，安老院的營辦人須向署長申報。
- (2) 有關申報須 ——
 - (a) 在有關營辦人知悉事件的日期後的 7 日內 (或在署長准許的較長期間內)，以書面作出；及
 - (b) 載有署長指明的資料。
- (3) 以下事件是為第 (1) 款而指明者 ——
 - (a) 就屬獨資經營人的營辦人而言 ——
 - (i) 有就可公訴罪行而針對該營辦人或有關安老院的負責人提出的檢控，在香港展開；
 - (ii) 有就可處監禁 (不論如何描述) 的罪行而針對該營辦人或該負責人提出的檢控，在香港以外地方展開；
 - (iii) 該營辦人或該負責人，在香港被裁定犯可公訴罪行；
 - (iv) 該營辦人或該負責人，在香港以外地方被判處監禁 (不論如何描述)，不論有關判刑是否緩期執行；
 - (v) 該營辦人或該負責人，成為未獲解除破產的破產人；
 - (vi) 該營辦人或該負責人，與其債權人訂立債務重整協議或債務償還安排；
 - (vii) 該營辦人或該負責人屬某法人團體的董事，而該法人團體進入清盤程序，或成為清盤令之標的；
 - (viii) 該負責人的姓名或通訊地址有所更改；
 - (b) 就屬法人團體的營辦人而言 ——
 - (i) 有就可公訴罪行而針對該營辦人或有關安老院的負責人提出的檢控，在香港展開；

- (1) The operator of a residential care home must report to the Director if any of the events specified in subsection (3) occurs.
- (2) The report must—
 - (a) be given in writing within 7 days after the date on which the operator becomes aware of the event or a longer period that the Director permits; and
 - (b) contain the information specified by the Director.
- (3) The following events are specified for subsection (1)—
 - (a) for an operator that is a sole proprietor—
 - (i) a prosecution is started against the operator or the responsible person of the residential care home for an indictable offence in Hong Kong;
 - (ii) a prosecution is started against the operator or the responsible person for an offence punishable with imprisonment (however described) in a place outside Hong Kong;
 - (iii) the operator or the responsible person is convicted of an indictable offence in Hong Kong;
 - (iv) the operator or the responsible person is sentenced to imprisonment (however described) in a place outside Hong Kong, whether or not the sentence is suspended;
 - (v) the operator or the responsible person becomes an undischarged bankrupt;
 - (vi) the operator or the responsible person enters into a composition or scheme of arrangement with their creditors;
 - (vii) a body corporate of which the operator or the responsible person is a director goes into

- (ii) 有就可處監禁 (不論如何描述) 的罪行而針對該營辦人或該負責人提出的檢控，在香港以外地方展開；
- (iii) 該營辦人或該負責人，在香港被裁定犯可公訴罪行；
- (iv) 該營辦人在香港以外地方被裁定犯可處監禁 (不論如何描述) 的罪行；
- (v) 該負責人在香港以外地方被判處監禁 (不論如何描述)，不論有關判刑是否緩期執行；
- (vi) 該營辦人進入清盤程序，或成為清盤令之標的；
- (vii) 該營辦人或該負責人，與其債權人訂立債務重整協議或債務償還安排；
- (viii) 該營辦人或該負責人屬某法人團體的董事，而該法人團體進入清盤程序，或成為清盤令之標的；
- (ix) 該負責人成為未獲解除破產的破產人；
- (x) 該負責人的姓名或通訊地址有所更改；或
- (c) 就屬合夥的營辦人而言 ——
 - (i) 有就可公訴罪行而針對該合夥中的任何合夥人 (合夥人) 提出的檢控，或有就可公訴罪行而針對有關安老院的負責人提出的檢控，在香港展開；
 - (ii) 有就可處監禁 (不論如何描述) 的罪行而針對任何合夥人或該負責人提出的檢控，在香港以外地方展開；
 - (iii) 任何合夥人或該負責人，在香港被裁定犯可公訴罪行；
 - (iv) 任何屬個人的合夥人或該負責人，在香港以外地方被判處監禁 (不論如何描述)，不論有關判刑是否緩期執行；

- liquidation or becomes the subject of a winding-up order;
- (viii) there is a change in the name or correspondence address of the responsible person;
- (b) for an operator that is a body corporate—
 - (i) a prosecution is started against the operator or the responsible person of the residential care home for an indictable offence in Hong Kong;
 - (ii) a prosecution is started against the operator or the responsible person for an offence punishable with imprisonment (however described) in a place outside Hong Kong;
 - (iii) the operator or the responsible person is convicted of an indictable offence in Hong Kong;
 - (iv) the operator is convicted of an offence punishable with imprisonment (however described) in a place outside Hong Kong;
 - (v) the responsible person is sentenced to imprisonment (however described) in a place outside Hong Kong, whether or not the sentence is suspended;
 - (vi) the operator goes into liquidation or becomes the subject of a winding-up order;
 - (vii) the operator or the responsible person enters into a composition or scheme of arrangement with their creditors;
 - (viii) a body corporate of which the operator or the responsible person is a director goes into liquidation or becomes the subject of a winding-up order;

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- (v) 任何屬法人團體的合夥人，在香港以外地方被裁定犯可處監禁（不論如何描述）的罪行；
- (vi) 任何合夥人或該負責人，成為未獲解除破產的破產人；
- (vii) 任何合夥人進入清盤程序，或成為清盤令之標的；
- (viii) 任何合夥人或該負責人，與其債權人訂立債務重整協議或債務償還安排；
- (ix) 任何合夥人或該負責人屬某法人團體的董事，而該法人團體進入清盤程序，或成為清盤令之標的；

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- (ix) the responsible person becomes an undischarged bankrupt;
- (x) there is a change in the name or correspondence address of the responsible person; or
- (c) for an operator that is a partnership—
 - (i) a prosecution is started against any partner in the partnership (*partner*) or the responsible person of the residential care home for an indictable offence in Hong Kong;
 - (ii) a prosecution is started against any partner or the responsible person for an offence punishable with imprisonment (however described) in a place outside Hong Kong;
 - (iii) any partner or the responsible person is convicted of an indictable offence in Hong Kong;
 - (iv) any partner (being an individual) or the responsible person is sentenced to imprisonment (however described) in a place outside Hong Kong, whether or not the sentence is suspended;
 - (v) any partner (being a body corporate) is convicted of an offence punishable with imprisonment (however described) in a place outside Hong Kong;
 - (vi) any partner or the responsible person becomes an undischarged bankrupt;
 - (vii) any partner goes into liquidation or becomes the subject of a winding-up order;
 - (viii) any partner or the responsible person enters into a composition or scheme of arrangement with their creditors;
 - (ix) a body corporate of which any partner or the responsible person is a director goes into

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(x) 該負責人的姓名或通訊地址有所更改。

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liquidation or becomes the subject of a winding-up order;

(x) there is a change in the name or correspondence address of the responsible person.

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上訴

(第 V 部由 2011 年第 12 號第 41 條代替)

12. 對署長的決定提出上訴

任何人如因根據第 8、9 或 10(1) 條就該人作出的任何決定而感到受屈，可向行政上訴委員會提出上訴。

(由 2023 年第 12 號第 15 條修訂)

13-16. (由 2011 年第 12 號第 41 條廢除)

Part 5

Appeals

(Part V replaced 12 of 2011 s. 41)

12. Appeals against decisions of Director

A person who is aggrieved by any decisions made in respect of the person under section 8, 9 or 10(1) may appeal to the Administrative Appeals Board.

(Amended 12 of 2023 s. 15)

13-16. (Repealed 12 of 2011 s. 41)

第 6 部

安老院的監管

17. 督察的委任

署長可藉書面通知委任下列人士為安老院的督察——

- (a) 社會福利署任何人員；
- (b) 屋宇署任何人員；
- (c) 任何註冊為醫生的人，或任何根據《醫生註冊條例》(第 161 章)第 29 條當作已註冊為醫生的人；及
- (d) 《護士註冊條例》(第 164 章)所指的獲正式註冊的人。
(由 2024 年第 24 號第 92 條修訂)

18. 視察安老院

(1) 在本條中，**指明人士** (specified person) 指——

- (a) 署長；
- (b) 消防處任何人員；或
- (c) 任何督察。

(2) 任何指明人士可——

- (a) 在所有合理時間進入及視察任何安老院，或任何其有理由懷疑被用作安老院或為安老院的目的而使用的任何處所 (**可疑處所**)；
- (b) 要求任何參與營辦或管理有關安老院或可疑處所的人——(由 2023 年第 12 號第 23 條修訂)

Part 6

Supervision of Residential Care Homes

17. Appointment of inspectors

The Director may by notice in writing appoint—

- (a) any officer of the Social Welfare Department;
- (b) any officer of the Buildings Department;
- (c) any person who is registered as a medical practitioner, or who is deemed to be so registered under section 29 of the Medical Registration Ordinance (Cap. 161); and
- (d) any person with full registration within the meaning of the Nurses Registration Ordinance (Cap. 164), (*Amended 24 of 2024 s. 92*)

to be an inspector of residential care homes.

18. Inspection of residential care homes

(1) In this section, **specified person** (指明人士) means—

- (a) the Director;
- (b) an officer of the Fire Services Department; or
- (c) an inspector.

(2) If a specified person produces, if so required, proof of identity as the specified person, and the specified person's identity card issued under the Registration of Persons Ordinance (Cap. 177), the specified person may—

- (a) at all reasonable times enter and inspect any residential care home or any premises which the specified person has reason to suspect are used as or for the purposes of a residential care home (**suspected premises**);

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- (i) 出示關乎該安老院或可疑處所的營辦、管理或就該安老院或可疑處所進行的任何其他活動的任何簿冊、文件或其他物品；或
 - (ii) 提交關乎第 (i) 節所述的營辦、管理或活動的任何資料；(由 2023 年第 12 號第 23 條修訂)
 - (c) 自有關安老院或可疑處所帶走任何簿冊、文件或其他物品，以作進一步查驗，但該指明人士須有理由懷疑該簿冊、文件或物品是犯本條例所訂罪行的證據，方可如此行事；
 - (d) 自有關安老院帶走任何簿冊、文件或其他物品，以作進一步查驗，但該指明人士須有理由懷疑該簿冊、文件或物品是構成撤銷就該安老院發出的牌照的理由的證據，方可如此行事；及
 - (e) 作出為辦理以下事宜而需要作出的任何其他事情——
 - (i) 視察有關安老院；或
 - (ii) 檢查或測試用於有關安老院的營辦、料理、管理或以其他方式的控制的任何有關設備、工程或系統，或在與此有關連的情況下使用的設備、工程或系統，(由 2023 年第 12 號第 23 條修訂)
- 但指明人士如遇到有關要求，須先行提供其作為指明人士的身分證明及其根據《人事登記條例》(第 177 章)發給的身分證，方可行使上述權力。
- (由 2011 年第 12 號第 42 條代替)

18A. 對指明人士若干作為及不作為的法律責任的保障

- (1) 第 18 條所指的指明人士如在根據本條例執行 (或其意是

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- (b) require any person taking part in the operation or management of the residential care home or suspected premises to—
 - (i) produce any book, document or other article relating to the operation or management of the residential care home or suspected premises, or to any other activity in respect of the residential care home or suspected premises; or
 - (ii) give any information relating to the operation, management or activity mentioned in subparagraph (i);
- (c) remove for further examination from the residential care home or suspected premises any book, document or other article which the specified person has reason to suspect is evidence of the commission of an offence against this Ordinance;
- (d) remove for further examination from the residential care home any book, document or other article which the specified person has reason to suspect is evidence of a ground for the cancellation of the licence issued in respect of it; and
- (e) do any other things that are necessary for—
 - (i) the inspection of the residential care home; or
 - (ii) the inspection or testing of any equipment, works or system used for or in connection with the operation, keeping, management or other control of the residential care home.

(Replaced 12 of 2011 s. 42)

18A. Protection of specified persons from liability for certain acts and omissions

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執行)任何職能的過程中,以真誠行事而作出或沒有作出任何事情,則無需就作出或沒有作出該事情而負上任何個人民事法律責任。

- (2) 第(1)款所賦予的保障,並不影響政府須就有關作為或不作為而承擔的任何法律責任。

(由 2011 年第 12 號第 43 條增補)

19. 署長可指示糾正措施

- (1) 署長可就任何安老院藉書面通知發出署長覺得需要的指示,以確保——(由 2023 年第 12 號第 16 條修訂)
- (a) 該安老院的營辦及管理情況令人滿意;(由 2023 年第 12 號第 23 條修訂)
 - (b) 該安老院以恰當方式促進其住客的福利;
 - (c) 該安老院備有足夠的所需器材及設備,以預防火警或其他相當可能危害住客的生命或健康的災患;及
 - (d) 本條例的條文獲遵從。
- (2) 根據第(1)款發出的通知——
- (a) 須面交送達或以掛號郵遞送達予營辦、料理、管理或以其他方式控制有關安老院的人;及(由 2023 年第 12 號第 16 條代替)
 - (b) 須指明遵從指示的限期。

20. 署長可下令停止將處所作安老院

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- (1) A specified person under section 18 is not personally liable for any civil liability in respect of anything done or omitted to be done by the specified person in good faith in the exercise of a function or purported exercise of a function under this Ordinance.
- (2) The protection conferred by subsection (1) does not affect any liability of the Government for the act or omission.

(Added 12 of 2011 s. 43)

19. Director may direct remedial measures

- (1) The Director may, in respect of any residential care home, by notice in writing, give such directions as appear to the Director to be required to secure that—(Amended 12 of 2023 s. 16)
- (a) it is operated and managed satisfactorily;
 - (b) the welfare of its residents is promoted in a proper manner;
 - (c) adequate apparatus and equipment required as safeguards against fire or other hazard likely to endanger the lives or health of residents are provided in the residential care home; and
 - (d) the provisions of this Ordinance are complied with.
- (2) A notice under subsection (1)—
- (a) must be served personally or by registered post on a person who operates, keeps, manages or otherwise has control of the residential care home; and (Replaced 12 of 2023 s. 16)
 - (b) must indicate a period within which the directions must be complied with. (Amended 12 of 2023 s. 16)

20. Director may order cessation of use of premises as a residential

- (1) 如署長 ——
- (a) 覺得任何安老院內住客遇到危險或可能遇到危險；或
 - (b) 根據第 19(1) 條就任何安老院發出指示，但該項指示內的規定未有在根據該條送達的通知內所指明的期限內獲遵從，
- 署長可藉書面命令，指示在署長認為合適的期間內或在署長另作通知之前，停止將用作安老院的有關處所用作安老院。(由 2023 年第 12 號第 17 條修訂)
- (2) 根據本條作出的命令 —— (由 2023 年第 12 號第 17 條修訂)
- (a) 須送達予營辦、料理、管理或以其他方式控制有關安老院的人；及
 - (b) 自送達日期起生效。(由 2023 年第 12 號第 17 條修訂)
- (3) 凡將根據本條作出的命令 ——
- (a) 面交送達收件人；
 - (b) 以掛號郵遞寄往該人最後為人所知的地址；或
 - (c) 張貼一份於與該命令有關的處所之內或外部的顯眼處，
- 該命令即為已有效送達。
-

care home

- (1) The Director may—
- (a) if it appears to the Director that there is any danger or risk of danger to persons in residence in a residential care home; or
 - (b) if, in respect of any such residential care home, the requirements of a direction given under section 19(1) are not complied with within the period indicated in the notice served under that section,
- by order in writing direct that the premises used as a residential care home cease to be used as a residential care home for such period as the Director thinks fit or until further notice. (Amended 12 of 2023 s. 17)
- (2) An order under this section— (Amended 12 of 2023 s. 17)
- (a) must be served on a person who operates, keeps, manages or otherwise has control of the residential care home concerned; and
 - (b) takes effect from the date of service. (Amended 12 of 2023 s. 17)
- (3) It is sufficient service of an order under this section if— (Amended 12 of 2023 s. 17)
- (a) it is delivered personally to the person on whom it is to be served;
 - (b) it is sent by registered post to the last known address of that person; or
 - (c) a copy thereof is posted in a conspicuous place upon or in the premises to which it relates.
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雜項

21. 關於牌照的罪行

(由 2023 年第 12 號第 18 條修訂)

(1)-(2) (由 2023 年第 12 號第 18 條廢除)

(3) 凡署長已就一所安老院發出牌照，任何人——(由 2023 年第 12 號第 18 條修訂)

(a) 在違反牌照的條件的情況下；

(b) 在牌照所指明的處所以外的處所內；或

(c) 以牌照所指明的安老院名稱以外的名稱，營辦、料理、管理或以其他方式控制該安老院，即屬犯罪。(由 2023 年第 12 號第 23 條修訂)

(4) 如就一所安老院發出牌照的條件遭違反，則除非該安老院的營辦人能證明下列情況，否則該營辦人即屬犯罪——(由 2023 年第 12 號第 18 條修訂)

(a) 該營辦人既不知道亦無理由懷疑有導致有關違反事件的情況存在；及

(b) 該營辦人即使作出合理的監管及合理的努力，亦不能避免該等情況出現。(由 2020 年第 21 號第 32 條修訂；由 2023 年第 12 號第 18 條修訂)

(5) 如有人被指稱犯第 (3) 款所訂罪行，而有證據證明被告人作出與營辦、料理、管理或以其他方式控制一所安老院有關連的作為，在沒有相反證據的情況下，該等證據即為被告人營辦、料理、管理或以其他方式控制一所安老院的證明。(由 2023 年第 12 號第 18 及 23 條修訂)

(6) 任何人有任何下列行為，即屬犯罪——

Part 7

Miscellaneous

21. Offences in relation to licences

(Amended 12 of 2023 s. 18)

(1)-(2) (Repealed 12 of 2023 s. 18)

(3) Any person who operates, keeps, manages or otherwise has control of a residential care home in respect of which a licence has been issued—(Amended 12 of 2023 s. 18)

(a) in contravention of any condition of the licence;

(b) in any premises other than premises indicated in the licence; or

(c) under any name other than the name indicated in the licence,

commits an offence.

(4) If a condition of a licence issued in respect of a residential care home is contravened, the operator of the residential care home commits an offence unless the operator proves that—(Amended 12 of 2023 s. 18)

(a) the operator did not know and had no reason to suspect the existence of the circumstances giving rise to the contravention; and

(b) the operator could not, by the exercise of reasonable supervision and reasonable diligence, have prevented those circumstances arising.

(5) If an offence under subsection (3) is alleged to have been committed, proof that a defendant did any act in connection with the operation, keeping, management or other control of

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- (a) 在根據本條例提出的申請中，或在與該等申請有關連的情況下，作出在要項上屬虛假的口頭陳述或書面陳述，或提交在要項上屬虛假的資料，而該人是知道或理應知道該等陳述或資料在該要項上屬虛假的；
 - (b) 妨礙署長、消防處任何人員或任何督察行使本條例賦予署長、該人員或該督察的權力；
 - (c) 拒絕應根據第 18 條提出的要求出示簿冊、文件或其他物品，或提交在要項上屬虛假而該人知道或理應知道該資料在該要項上屬虛假的；
 - (d) 接獲根據第 19 條送達的通知，但沒有在該通知指明的期限內遵從根據該條發出的指示的規定；
 - (e) 沒有遵從根據第 20 條送達予該人的命令的規定。(由 2023 年第 12 號第 18 條修訂)
- (7) 任何人犯本條所訂的罪行，可處第 6 級罰款及監禁 2 年，並可就該罪行持續的每一日另處罰款 \$10,000。

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- a residential care home is, in the absence of evidence to the contrary, proof that the defendant operated, kept, managed or otherwise had control of a residential care home.
- (6) Any person who—
- (a) in or in connection with any application under this Ordinance makes any statement or furnishes any information, whether such statement be oral or written, which is false in any material particular and which the person knows or reasonably ought to know is false in such particular;
 - (b) obstructs the Director, any officer of the Fire Services Department or any inspector in the exercise of any power conferred on the Director, officer or inspector by this Ordinance;
 - (c) refuses to produce any book, document or other article upon being so required under section 18 or furnishes any information which is false in a material particular and which the person knows or reasonably ought to know is false in such particular;
 - (d) fails to comply with the requirements of a direction given under section 19 within the period indicated in the notice served thereunder;
 - (e) fails to comply with the requirements of an order served on the person under section 20,
- commits an offence.
- (7) Any person who commits an offence under this section is liable to a fine at level 6 and to imprisonment for 2 years and to a fine of \$10,000 for each day during which the offence continues.

(Amended 12 of 2023 s. 18)

21A. 負責人的法律責任

如某安老院的營辦人犯本條例所訂罪行，而該罪行經證明——

- (a) 是在該安老院的負責人的同意或縱容下犯的；或
- (b) 是可歸因於該安老院的負責人在執行第 11D 條所述職務時的疏忽的，

則該負責人亦屬犯該罪行。

(由 2023 年第 12 號第 19 條增補)

21B. 董事、合夥人等的法律責任

(1) 如——

- (a) 某獨資經營人犯本條例所訂罪行；及
- (b) 該罪行經證明是在關涉管理有關獨資經營的人的同意或縱容下犯的，

則該人亦屬犯該罪行。

(2) 如——

- (a) 某法人團體犯本條例所訂罪行；及
- (b) 該罪行經證明是在該法人團體的某董事的同意或縱容下犯的，或是在關涉管理該法人團體的人的同意或縱容下犯的，

則該董事或該人（視情況所需而定）亦屬犯該罪行。

(3) 如——

- (a) 某合夥中的某合夥人犯本條例所訂罪行；及
- (b) 該罪行經證明是在該合夥中的另一合夥人的同意或縱容下犯的，或是在關涉管理該合夥的人的同意或縱容下犯的，

21A. Liability of responsible person

If the operator of a residential care home commits an offence under this Ordinance, and it is proved that the offence—

- (a) was committed with the consent or connivance of the responsible person of the residential care home; or
- (b) was attributable to any neglect on the part of the responsible person of the residential care home in performing the duties mentioned in section 11D,

the responsible person also commits the offence.

(Added 12 of 2023 s. 19)

21B. Liability of directors, partners, etc.

(1) If—

- (a) a sole proprietor commits an offence under this Ordinance; and
- (b) it is proved that the offence was committed with the consent or connivance of a person concerned in the management of the sole proprietorship,

the person also commits the offence.

(2) If—

- (a) a body corporate commits an offence under this Ordinance; and
- (b) it is proved that the offence was committed with the consent or connivance of a director of the body corporate, or of a person concerned in the management of the body corporate,

the director or the person, as the case requires, also commits the offence.

(3) If—

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則該另一合夥人或該人(視情況所需而定)亦屬犯該罪行。
(由 2023 年第 12 號第 19 條增補)

21C. 罪行的檢控期限

- (1) 就本條例所訂罪行而提出的檢控，只可在署長發現該罪行的日期後的 12 個月終結前展開。

附註——

此規定取代《裁判官條例》(第 227 章)第 26 條所訂的時效。

- (2) 第 (1) 款並不就關鍵日期前所犯的罪行而適用。

(由 2023 年第 12 號第 19 條增補)

22. 與安老院的營辦有關的實務守則

(由 2023 年第 12 號第 23 條修訂)

- (1) 署長可不時發出實務守則，列出營辦、料理、管理或以其他方式控制安老院的原則、程序、指引及標準。(由 2023 年第 12 號第 23 條修訂)
- (2) 署長須將不時根據第 (1) 款發出的實務守則一份，存放於署長指示的政府辦事處，在辦公時間內供公眾人士免費查閱。

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- (a) a partner in a partnership commits an offence under this Ordinance; and
- (b) it is proved that the offence was committed with the consent or connivance of another partner in the partnership, or of a person concerned in the management of the partnership,
- the other partner or the person, as the case requires, also commits the offence.

(Added 12 of 2023 s. 19)

21C. Prosecution deadline for offences

- (1) A prosecution for an offence under this Ordinance may only be started before the end of 12 months after the date on which the offence is discovered by the Director.

Note—

This replaces the time limit under section 26 of the Magistrates Ordinance (Cap. 227).

- (2) Subsection (1) does not apply in relation to an offence committed before the material date.

(Added 12 of 2023 s. 19)

22. Codes of Practice relating to operation of residential care homes

- (1) The Director may issue from time to time Codes of Practice setting out principles, procedures, guidelines and standards for the operation, keeping, management or other control of residential care homes.
- (2) A copy of every Code of Practice issued from time to time under subsection (1) shall be made available during the hours of business by the Director for inspection by the public free of charge at such offices of the Government as the Director may direct.

23. 規例

- (1) 勞工及福利局局長可訂立規例，就下列與安老院有關的事宜，訂定條文——(由 1999 年第 17 號第 3 條修訂；由 2011 年第 12 號第 44 條修訂)
- (a) 安老院的營辦、管理、監管及視察；(由 2023 年第 12 號第 23 條修訂)
 - (b) 安老院的種類或類別；
 - (c) 安老院的營辦人及負責人的職務及責任；(由 2023 年第 12 號第 20 條修訂)
 - (d) 為營辦、管理及監管安老院而僱用的人的資格、經驗、委任、職務、責任及紀律，包括上述僱員與院內獲照顧的住客的人數比例，以及署長為使該人可以受僱於安老院工作而接納其註冊的事宜；(由 2023 年第 12 號第 23 條修訂)
 - (e) 安老院收納住客事宜(須考慮到任何種類或類別的安老院可收納的住客的年齡)；
 - (f) 安老院所照顧的住客及受僱在其內工作的人的健康檢查；
 - (g) 禁止任何住客或僱員進入安老院，以及為保障住客或僱員的健康與福祉而須採取的措施；(由 2023 年第 12 號第 20 條修訂)
 - (h) 住客離開安老院及離開時須依循的手續，包括就受照顧的住客離開安老院而須給予的通知期；
 - (i) 安老院內的活動的控制及監管；
 - (j) 安老院內的設備的充足程度、適合程度及使用情況；
 - (k) 安老院備存紀錄、時間表、餐單及帳目簿冊；
 - (l) 就安老院向署長提交的報告及資料；
 - (m) 安老院的設計、建造及衛生情況；(由 2023 年第 12 號第 20 條修訂)

23. Regulation

- (1) The Secretary for Labour and Welfare may by regulation provide for or in relation to residential care homes for—(Amended 17 of 1999 s. 3; 12 of 2011 s. 44)
- (a) the operation, management, supervision and inspection thereof;
 - (b) the classes or description thereof;
 - (c) the duties and responsibilities of operators and responsible persons of residential care homes;
 - (d) the qualifications, experience, appointment, duties, responsibilities and discipline of persons employed for the purposes of the operation, management and supervision, including the number of persons to be so employed in relation to the number of residents cared for therein and the registration by the Director of any such person for the purposes of that employment;
 - (e) the admission of residents thereto having regard to the age of residents who may be admitted to any class or description thereof;
 - (f) the medical examination of the residents cared for and the persons employed therein;
 - (g) the exclusion therefrom of any resident or employee and measures to preserve the health and well-being of residents or employees;
 - (h) the discharge of residents therefrom and the procedure to be adopted for the discharge, including the period of notice to be given for the discharge of any resident cared for therein;
 - (i) the control and supervision of activities therein;
 - (j) the adequacy, suitability and use of equipment therein;

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- (n) 就火警或其他相當可能危害安老院所照顧的住客的生命或健康的嚴重危險而須採取的預防措施；
- (o) 安老院進出口通道的設置及管制；
- (p) 披露安老院所提供的服務或其他因照顧院內住客可收取的各項收費的水平或數額，或提供這方面的資料；
- (q) *(由 2011 年第 12 號第 44 條廢除)*
- (r) 在符合第 24 條的規定下，就本條例訂明或准許的任何事宜而收取的費用；
- (ra) 以指明有牌照在當其時就安老院而有效的方式，推廣(包括宣傳或推銷)安老院；*(由 2011 年第 12 號第 44 條增補。由 2023 年第 12 號第 20 條修訂)*
- (s) 概括而言，本條例條文的施行。
- (2) 根據本條訂立的規例可——
 - (a) 禁止在未獲署長同意下作出某些作為；
 - (b) 授權署長規定或禁止作出某些作為；及
 - (c) 規定作出某些作為並須達到令署長滿意的程度。
- (3) 署長可給予營辦、料理、管理或以其他方式控制安老院的人書面通知，完全、局部或有條件地免除就該安老院施行任何規例的規定，並可修訂或撤回該等通知。*(由 2023 年第 12 號第 20 條修訂)*
- (4) 根據本條訂立的規例，可規定凡違反規例，即屬犯罪，可處不超過第 6 級的罰款及監禁不超過 2 年，並可就該罪行持續的每一日另處罰款不超過 \$10,000。
- (5) 根據第 (1)(r) 款訂定的收費款額，無須因署長在根據本條例履行其職能時所招致或相當可能招致的行政費或其他費用的數額而受限制。
- (6) 在不影響第 (5) 款的概括性原則下，根據第 (1)(r) 款訂立的規例可規定——

- (k) the keeping, in respect thereof, of records, time-tables, menus and books of account;
- (l) the reports and information to be supplied to the Director in respect thereof;
- (m) the design, construction, hygiene and sanitation of residential care homes;
- (n) the precautions to be taken against fire or other peril likely to endanger the lives or health of residents cared for therein;
- (o) the provision of and control of entrances to and exits therefrom;
- (p) the disclosure of and provision of information relating to the level or amount of fees and other charges that may be charged or imposed in respect of the services provided therein or otherwise on account of the care of residents thereat;
- (q) *(Repealed 12 of 2011 s. 44)*
- (r) subject to section 24, the fees to be charged for any matter prescribed or permitted by this Ordinance;
- (ra) the promotion, including the advertising or marketing, of residential care homes by specifying that licences are for the time being in force in respect of the residential care homes; *(Added 12 of 2011 s. 44)*
- (s) generally, carrying into effect the provisions of this Ordinance.
- (2) Any regulation made under this section may—
 - (a) prohibit the performance of particular acts without the consent of the Director;
 - (b) authorize the Director to require or prohibit the performance of particular acts; and

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- (a) 視乎下列因素而須繳付不同費用 ——
- (i) 安老院的種類，或根據本條例訂明或准許的事宜的種類；
 - (ii) 牌照所指明的期間；及 (由 2023 年第 12 號第 20 條修訂)
- (b) 任何收費的減免或退還。

24. 無須就牌照繳付費用

(由 2023 年第 12 號第 21 條修訂)

在下列情況下，無須繳付費用 ——

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- (c) require particular acts to be performed to the satisfaction of Director.
- (3) The Director may, by notice in writing to a person who operates, keeps, manages or otherwise has control of a residential care home, waive wholly, partly or conditionally the requirements of any regulation in respect of that residential care home and may amend or withdraw any such notice.
- (4) Regulations made under this section may provide that a contravention thereof is an offence punishable by a fine not exceeding level 6 and a term of imprisonment not exceeding 2 years and punishable by a fine not exceeding \$10,000 for each day during which the offence continues.
- (5) The amount of fees provided for under subsection (1)(r) need not be limited by reference to the amount of administrative or other costs incurred or likely to be incurred by the Director in the discharge of the Director's functions under this Ordinance.
- (6) Without affecting the generality of subsection (5), any regulation made under subsection (1)(r) may provide for—
- (a) a different fee to be payable having regard to—
 - (i) type or description of any residential care home or of any matter prescribed or permitted under this Ordinance;
 - (ii) the period indicated in the licence; and
 - (b) the waiver, remission, reduction or refund of any fee.

(Amended 12 of 2023 s. 20)

24. No fee payable in respect of licence

(Amended 12 of 2023 s. 21)

No fee is payable— (Amended 12 of 2023 s. 21)

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- (a) (由 2023 年第 12 號第 21 條廢除)
 - (b) 申請發出牌照，或申請將牌照續期；或 (由 2023 年第 12 號第 21 條修訂)
 - (c) (由 2023 年第 12 號第 21 條廢除)
 - (d) 發出牌照，或將牌照續期。
-

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- (a) *(Repealed 12 of 2023 s. 21)*
 - (b) on an application for the issue or renewal of a licence;
or *(Amended 12 of 2023 s. 21)*
 - (c) *(Repealed 12 of 2023 s. 21)*
 - (d) for the issue or renewal of a licence.
-

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Cap. 459**附表 1**

[第 8A 條]

關於牌照申請人是否適當人選的規定

(附表 1 由 2023 年第 12 號第 22 條增補)

1. 關於獨資經營人的事宜

就第 8A(a) 條而言，有關事宜如下 ——

- (a) 有關獨資經營人是否曾 ——
 - (i) 在任何地方被裁定犯涉及欺詐或不誠實的罪行；
 - (ii) 在香港被裁定犯可公訴罪行；
 - (iii) 在香港以外地方被判處監禁（不論如何描述），不論有關判刑是否緩期執行；或
 - (iv) 被裁定犯本條例、《第 613 章》或《第 613A 章》所訂罪行；
- (b) 與有關獨資經營人相關的以下事宜的紀錄 ——
 - (i) 要求發出以下文件的申請 ——
 - (A) 本條例所指的牌照；
 - (B) 《第 613 章》第 2(1) 條所界定的牌照；或
 - (C) 《第 613 章》第 2(1) 條所界定的豁免證明書；
 - (ii) 要求將第 (i) 節所述的牌照或豁免證明書續期的申請；
 - (iii) 遵從第 (i) 節所述的牌照或豁免證明書的條件的情況；及
 - (iv) 遵從本條例、《第 613 章》或《第 613A 章》的情況；及
- (c) 有關獨資經營人是否 ——

Schedule 1

[s. 8A]

Fit and Proper Requirement for Licence Applicant

(Schedule 1 added 12 of 2023 s. 22)

1. Matters for sole proprietor

For section 8A(a), the matters are—

- (a) whether the sole proprietor has been—
 - (i) convicted of an offence involving fraud or dishonesty in any place;
 - (ii) convicted of an indictable offence in Hong Kong;
 - (iii) sentenced to imprisonment (however described) in a place outside Hong Kong, whether or not the sentence is suspended; or
 - (iv) convicted of an offence under this Ordinance, Cap. 613 or Cap. 613A;
- (b) the record of the following matters in connection with the sole proprietor—
 - (i) any application for—
 - (A) a licence within the meaning of this Ordinance;
 - (B) a licence as defined by section 2(1) of Cap. 613; or
 - (C) a certificate of exemption as defined by section 2(1) of Cap. 613;

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- (i) 屬未獲解除破產的破產人；
- (ii) 已與其債權人訂立債務重整協議或債務償還安排；或
- (iii) 屬某法人團體的董事，而該法人團體正在清盤當中或屬清盤令之標的。

2. 關於法人團體的事宜

就第 8A(b) 條而言，有關事宜如下 ——

- (a) 有關法人團體是否曾 ——
 - (i) 在任何地方被裁定犯涉及欺詐或不誠實的罪行；
 - (ii) 在香港被裁定犯可公訴罪行；
 - (iii) 在香港以外地方被裁定犯罪；或
 - (iv) 被裁定犯本條例、《第 613 章》或《第 613A 章》所訂罪行；
- (b) 與有關法人團體相關的以下事宜的紀錄 ——
 - (i) 要求發出以下文件的申請 ——
 - (A) 本條例所指的牌照；
 - (B) 《第 613 章》第 2(1) 條所界定的牌照；或
 - (C) 《第 613 章》第 2(1) 條所界定的豁免證明書；

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- (ii) any application for the renewal of a licence or certificate of exemption mentioned in subparagraph (i);
- (iii) compliance with the conditions of a licence or certificate of exemption mentioned in subparagraph (i); and
- (iv) compliance with this Ordinance, Cap. 613 or Cap. 613A; and
- (c) whether the sole proprietor—
 - (i) is an undischarged bankrupt;
 - (ii) has entered into a composition or scheme of arrangement with the sole proprietor's creditors; or
 - (iii) is a director of any body corporate that is in liquidation or is the subject of a winding-up order.

2. Matters for body corporate

For section 8A(b), the matters are—

- (a) whether the body corporate has been convicted of—
 - (i) an offence involving fraud or dishonesty in any place;
 - (ii) an indictable offence in Hong Kong;
 - (iii) an offence in a place outside Hong Kong; or
 - (iv) an offence under this Ordinance, Cap. 613 or Cap. 613A;
- (b) the record of the following matters in connection with the body corporate—
 - (i) any application for—
 - (A) a licence within the meaning of this Ordinance;

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- (ii) 要求將第 (i) 節所述的牌照或豁免證明書續期的申請；
- (iii) 遵從第 (i) 節所述的牌照或豁免證明書的條件的情況；及
- (iv) 遵從本條例、《第 613 章》或《第 613A 章》的情況；及
- (c) 有關法人團體是否——
 - (i) 正在清盤當中或屬清盤令之標的；
 - (ii) 已與其債權人訂立債務重整協議或債務償還安排；或
 - (iii) 屬某法人團體的董事，而該法人團體正在清盤當中或屬清盤令之標的。

3. 關於合夥的事宜

就第 8A(c) 條而言，有關事宜如下——

- (a) 在有關合夥中的任何合夥人——
 - (i) 是否曾在任何地方被裁定犯涉及欺詐或不誠實的罪行；
 - (ii) 是否曾在香港被裁定犯可公訴罪行；
 - (iii) 如屬個人——是否曾在香港以外地方被判處監禁（不論如何描述），不論有關判刑是否緩期執行；

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- (B) a licence as defined by section 2(1) of Cap. 613; or
- (C) a certificate of exemption as defined by section 2(1) of Cap. 613;
- (ii) any application for the renewal of a licence or certificate of exemption mentioned in subparagraph (i);
- (iii) compliance with the conditions of a licence or certificate of exemption mentioned in subparagraph (i); and
- (iv) compliance with this Ordinance, Cap. 613 or Cap. 613A; and
- (c) whether the body corporate—
 - (i) is in liquidation or is the subject of a winding-up order;
 - (ii) has entered into a composition or scheme of arrangement with the body corporate's creditors; or
 - (iii) is a director of any body corporate that is in liquidation or is the subject of a winding-up order.

3. Matters for partnership

For section 8A(c), the matters are—

- (a) whether any partner in the partnership has been—
 - (i) convicted of an offence involving fraud or dishonesty in any place;
 - (ii) convicted of an indictable offence in Hong Kong;
 - (iii) if the partner is an individual—sentenced to imprisonment (however described) in a place outside Hong Kong, whether or not the sentence is suspended;

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- (iv) 如屬法人團體——是否曾在香港以外地方被裁定犯罪；或
- (v) 是否曾被裁定犯本條例、《第 613 章》或《第 613A 章》所訂罪行；
- (b) 與在有關合夥中的任何合夥人相關的以下事宜的紀錄——
 - (i) 要求發出以下文件的申請——
 - (A) 本條例所指的牌照；
 - (B) 《第 613 章》第 2(1) 條所界定的牌照；或
 - (C) 《第 613 章》第 2(1) 條所界定的豁免證明書；
 - (ii) 要求將第 (i) 節所述的牌照或豁免證明書續期的申請；
 - (iii) 遵從第 (i) 節所述的牌照或豁免證明書的條件的情況；及
 - (iv) 遵從本條例、《第 613 章》或《第 613A 章》的情況；及
- (c) 在有關合夥中的任何合夥人，是否——
 - (i) 屬未獲解除破產的破產人；
 - (ii) 正在清盤當中或屬清盤令之標的；
 - (iii) 已與其債權人訂立債務重整協議或債務償還安排；或

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- (iv) if the partner is a body corporate—convicted of an offence in a place outside Hong Kong; or
- (v) convicted of an offence under this Ordinance, Cap. 613 or Cap. 613A;
- (b) the record of the following matters in connection with any partner in the partnership—
 - (i) any application for—
 - (A) a licence within the meaning of this Ordinance;
 - (B) a licence as defined by section 2(1) of Cap. 613; or
 - (C) a certificate of exemption as defined by section 2(1) of Cap. 613;
 - (ii) any application for the renewal of a licence or certificate of exemption mentioned in subparagraph (i);
 - (iii) compliance with the conditions of a licence or certificate of exemption mentioned in subparagraph (i); and
 - (iv) compliance with this Ordinance, Cap. 613 or Cap. 613A; and
- (c) whether any partner in the partnership—
 - (i) is an undischarged bankrupt;
 - (ii) is in liquidation or is the subject of a winding-up order;
 - (iii) has entered into a composition or scheme of arrangement with the partner's creditors; or

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(iv) 屬某法人團體的董事，而該法人團體正在清盤
當中或屬清盤令之標的。

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(iv) is a director of any body corporate that is in
liquidation or is the subject of a winding-up order.

附表 2

[第 11E 條]

關於負責人是否適當人選的規定*(附表 2 由 2023 年第 12 號第 22 條增補)*

就第 11E 條而言，有關事宜如下——

- (a) 有關的人是否曾——
 - (i) 在任何地方被裁定犯涉及欺詐或不誠實的罪行；
 - (ii) 在香港被裁定犯可公訴罪行；
 - (iii) 在香港以外地方被判處監禁（不論如何描述），不論有關判刑是否緩期執行；或
 - (iv) 被裁定犯本條例、《第 613 章》或《第 613A 章》所訂罪行；
- (b) 與有關的人相關的以下事宜的紀錄——
 - (i) 要求發出以下文件的申請——
 - (A) 本條例所指的牌照；
 - (B) 《第 613 章》第 2(1) 條所界定的牌照；或
 - (C) 《第 613 章》第 2(1) 條所界定的豁免證明書；
 - (ii) 要求將第 (i) 節所述的牌照或豁免證明書續期的申請；
 - (iii) 遵從第 (i) 節所述的牌照或豁免證明書的條件的情況；及
 - (iv) 遵從本條例、《第 613 章》或《第 613A 章》的情況；及
- (c) 有關的人是否——
 - (i) 屬未獲解除破產的破產人；

Schedule 2

[s. 11E]

Fit and Proper Requirement for Responsible Person*(Schedule 2 added 12 of 2023 s. 22)*

For section 11E, the matters are—

- (a) whether the person has been—
 - (i) convicted of an offence involving fraud or dishonesty in any place;
 - (ii) convicted of an indictable offence in Hong Kong;
 - (iii) sentenced to imprisonment (however described) in a place outside Hong Kong, whether or not the sentence is suspended; or
 - (iv) convicted of an offence under this Ordinance, Cap. 613 or Cap. 613A;
- (b) the record of the following matters in connection with the person—
 - (i) any application for—
 - (A) a licence within the meaning of this Ordinance;
 - (B) a licence as defined by section 2(1) of Cap. 613; or
 - (C) a certificate of exemption as defined by section 2(1) of Cap. 613;
 - (ii) any application for the renewal of a licence or certificate of exemption mentioned in subparagraph (i);

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附表 2

第 459 章

Schedule 2

S2-4

Cap. 459

- (ii) 已與其債權人訂立債務重整協議或債務償還安排；或
- (iii) 屬某法人團體的董事，而該法人團體正在清盤當中或屬清盤令之標的。

- (iii) compliance with the conditions of a licence or certificate of exemption mentioned in subparagraph (i); and
- (iv) compliance with this Ordinance, Cap. 613 or Cap. 613A; and
- (c) whether the person—
 - (i) is an undischarged bankrupt;
 - (ii) has entered into a composition or scheme of arrangement with the person's creditors; or
 - (iii) is a director of any body corporate that is in liquidation or is the subject of a winding-up order.