



Queensland

# Residential Services (Accreditation) Regulation 2018

## Subordinate Legislation 2018 No. 137

made under the

*Residential Services (Accreditation) Act 2002*

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## **Part 1 Preliminary**

### **1 Short title**

This regulation may be cited as the *Residential Services (Accreditation) Regulation 2018*.

### **2 Commencement**

This regulation commences on 1 September 2018.

### **3 Definitions**

The dictionary in schedule 2 defines particular words used in this regulation.

## **Part 2 Residential services and prescribed building requirements**

### **4 Services that are not residential services—Act, s 4**

- (1) This section prescribes, for section 4(5)(n) of the Act, services that are not residential services.
- (2) A service is not a residential service if the service is conducted mainly to provide accommodation to—
  - (a) employees in connection with their employment, other than employees employed in the service by the service provider; or
  - (b) contractors in connection with their contracts for services.
- (3) Also, a retirement village scheme is not a residential service if the scheme is accredited by a recognised accreditation body.
- (4) In this section—

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**contractor** means a person who does work under a contract for services, including, for example, a subcontractor.

**employee** includes a person who does unpaid work for or at the direction of an employer.

**recognised accreditation body** means an entity, recognised by the chief executive, that accredits retirement village schemes against standards for the health, safety and wellbeing of residents of retirement villages.

## 5 Prescribed building requirements—Act, s 28

(1) For section 28 of the Act, the prescribed building requirements are the requirements stated in the Queensland Development Code, part 5.7.

(2) In this section—

*Queensland Development Code* see the *Building Act 1975*, section 13.

## Part 3 Accreditation decisions

### 6 Matters prescribed for level 1 accreditation decision—Act, s 42

(1) This section prescribes matters for section 42(d) of the Act.

(2) In having regard to the matter mentioned in section 42(a) of the Act, the chief executive must consider whether the following matters apply—

#### **Privacy and confidentiality**

- Each resident's right to privacy, dignity and confidentiality in all aspects of the resident's life is recognised and respected by the service provider, each associate of the service provider and all staff of the residential service.

- A resident's correspondence and other confidential information is accessed or disclosed only with the resident's consent.

#### **Agreement for residency**

- The service provider gives information to residents, prospective residents, or representatives of residents or prospective residents, about the type of accommodation and services available.
- The service provider uses an individual resident agreement for each resident.

#### **Prevention of abuse and neglect**

- The service provider—
  - (a) recognises the right of residents to live in an environment free of—
    - (i) verbal, emotional, sexual or physical abuse; and
    - (ii) neglect; and
    - (iii) financial abuse; and
  - (b) implements and complies with policies and procedures protecting the right mentioned in paragraph (a).
- The service provider or an associate of the service provider acts to uphold the legal and human rights of residents.

#### **Grievance mechanism**

- Residents and representatives of residents, including, for example, advocates, are free to raise and have resolved with the service provider, an associate of the service provider or an external agency, including, for example, the Residential Tenancies Authority, any complaint or dispute they may have about the residential service without fear of retaliation.

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### **Management of residents with complex or difficult behaviour**

- Needs of residents with complex or difficult behaviour are managed effectively in a way that is respectful of their dignity.

### **Access to external service providers**

- Residents have full access to each of the following (each an *external service provider*)—
  - (a) an advocate;
  - (b) a professional case worker;
  - (c) other providers of health, disability, welfare or other professional services.
- Residents who have asked for help from an external service provider have full access to the external service provider by way of visits to or from the external service provider.
- Residents have the freedom to choose external service providers, who are independent of the service provider, without fear of retaliation.

### **Entitlement of residents to independence and freedom of choice**

- Each resident's right of independence and freedom of choice is recognised and respected, if the right does not unreasonably infringe on the rights of other residents.
- (3) In having regard to the matter mentioned in section 42(b) of the Act, the chief executive must consider whether the following matters apply—

### **Living environment**

- A safe, secure and comfortable living environment is provided to residents.
- All areas of the registered premises, including, for example, internal and external areas and common areas, are kept clean and in good repair, and free from hazards.

- Furnishings and equipment supplied for use by residents are appropriate, comfortable, kept clean and in good repair, and are replaced as required.
- Bedrooms and bathroom and toilet facilities provide appropriate personal space to residents and provide security and privacy to residents, including, for example, by having lockable doors.
- Passages and stairways are well lit and kept free of objects to allow safe and unimpeded movement through them at all times.
- Rubbish is removed regularly and in a way that does not impact on the health and wellbeing of residents and staff of the residential service.

#### **Security and emergencies**

- The service provider has a safety and emergency plan that includes procedures for any situation requiring immediate attention and remedial action, including, for example, a serious incident or extreme weather event at the service.
  - Staff and associates of the service provider are aware of, trained in and capable of implementing the procedures in the safety and emergency plan.
  - The service provider takes reasonable action to ensure residents are aware of the procedures in the safety and emergency plan.
  - The service provider takes reasonable action to ensure emergency services personnel and vehicles have access to the registered premises at all times.
- (4) In having regard to the matter mentioned in section 42(c) of the Act, the chief executive must consider whether the following matters apply—

#### **Business management**

- The service provider applies transparent and accountable business principles to the management and operation of the residential service.

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- The service provider is aware of and meets obligations under workplace health and safety legislation.
- The service provider takes reasonable action to ensure the service and the residents do not adversely impact on the peace and amenity of the neighbourhood.

#### **Human resource management**

- The service provider plans and implements fair and consistent strategies for the recruitment, selection and development of staff of the residential service.
- The service provider ensures staff are on duty in sufficient numbers to provide agreed services and support to residents.
- The service provider ensures staff are adequately trained to carry out assigned duties within a safe and supportive environment.

### **7 Matters prescribed for level 2 accreditation decision— Act, s 43**

- (1) This section prescribes matters for section 43(c) of the Act.
- (2) In having regard to the matter mentioned in section 43(a) of the Act, the chief executive must consider whether the following matter applies—

#### **Food and nutrition**

- Residents are provided with food and nutrition complying with the best practice guide for healthy eating in supported accommodation published by the health department on the website of the Metro South Hospital and Health Service.
- (3) In having regard to the matter mentioned in section 43(b) of the Act, the chief executive must consider whether the following matters apply—

#### **Kitchens**



- The kitchen facilities comply with the service provider's accredited food safety program, if any, or the food standards code, standard 3.2.3.

#### **Food handling and storage**

- Procedures are in place to ensure the safe delivery and storage of food.
- Persons preparing and serving food observe personal hygiene and cleanliness practices, take reasonable action to minimise the risk of food contamination, and comply with the service provider's accredited food safety program, if any, or the food standards code, standard 3.2.2.

(4) In this section—

*accredited food safety program* means an accredited food safety program under the *Food Act 2006*.

*food standards code* means the Australia New Zealand Food Standards Code under the *Food Standards Australia New Zealand Act 1991* (Cwlth).

*health department* means the department in which the *Hospital and Health Boards Act 2011* is administered.

### **8 Matters prescribed for level 3 accreditation decision— Act, s 44**

- (1) This section prescribes matters for section 44(c) of the Act.
- (2) In having regard to the matter mentioned in section 44(a) of the Act, the chief executive must consider whether the following matters apply—

#### **Human resource management**

- The service provider ensures staff who provide personal care services hold a current qualification for the administration of first aid and cardiopulmonary resuscitation.

#### **Access to externally provided support services**

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- Personal care services for residents are delivered, to the extent possible, through entities external to the residential service.

### **Financial and clerical support**

- Residents have management of their own financial affairs to the extent possible or have entities external to the residential service help with financial decisions.
- If residents require clerical support or help in managing their daily finances, practices are transparent and ensure accountability for funds held for residents.

### **Assistance with medication**

- If residents ask for help in taking their medication in accordance with medical directions, help is given in accordance with the guideline for medication assistance in residential services with level 3 accreditation published by the department on the department's website.

### **Health care**

- Residents have a choice of health care provider.
- If necessary, residents are encouraged and helped to maintain their physical, dental and mental health.

### **Clothing**

- Residents are supported to ensure they have access to and wear clothing appropriate to the situation and climate.

### **Hygiene management**

- The personal hygiene needs of residents are met in a way consistent with individual needs and respect for dignity and privacy.

### **Preservation of social networks**

- The importance of preserving family relationships and informal social networks is recognised and supported.

### **Choice and decision making**

- Residents participate in decisions about the services they receive.
- Residents are able to exercise choice and control over their lifestyle if this does not unreasonably infringe on the rights of other residents.

## **Part 4                      Miscellaneous**

### **9                      Notice of other changes—Act, s 69**

The following matters are prescribed for section 69(1)(d) of the Act—

- (a) a change to the fire safety management plan for the registered premises;
- (b) a change in a matter relevant to whether the service provider or an associate of the service provider would be a suitable person under section 22 of the Act;
- (c) the local government for the area in which the registered premises are situated decides that the premises do not comply with the prescribed building requirements for the premises.

### **10                      Fire safety management plan—Act, s 75**

- (1) This section prescribes requirements for section 75 of the Act.
- (2) A fire safety management plan for premises in which a residential service is conducted must state each of the following—
  - (a) the number of residents allowed to occupy the premises, taking into account room size requirements stated in the prescribed building requirements for the premises;
  - (b) the proposed maintenance schedule for the premises' fire safety equipment;

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- (c) the evacuation plan for evacuating the premises' occupants, including, for example, occupants with an intellectual or physical disability, in the event of a fire on the premises;
- (d) the proposed training programs for the premises' occupants and staff of the service about—
  - (i) fire management and prevention; and
  - (ii) emergency evacuation;
- (e) a list of the premises' fire safety equipment, together with the brand name and model number, if any, of each piece of equipment.

*Note—*

Section 75 of the Act does not apply to premises that are a budget accommodation building—see section 74 of the Act. For premises that are a budget accommodation building, see the *Fire and Emergency Services Act 1990*, chapter 3, part 9A, division 2.

- (3) Also, the fire safety management plan must be accompanied by a copy of the building plans, in a reasonable scale, identifying the location of the premises' fire safety equipment and fire exits.

## **11 Prescribed records—Act, s 77**

- (1) This section prescribes, for section 77 of the Act—
  - (a) the records that must be made and kept by the service provider for a registered service; and
  - (b) the time for which the records must be kept.
- (2) The service provider for a registered service must make and keep the following records—
  - (a) the full name, date of birth and gender of each resident in the service;
  - (b) the name and contact details of each resident's next of kin, if known, and any known substitute decision maker;

- (c) for each complaint received by the service provider about the service—
- (i) the nature of the complaint; and
  - (ii) the name of the person who made the complaint; and
  - (iii) the date the complaint was made; and
  - (iv) the action the service provider took to investigate and resolve the complaint; and
  - (v) the date the service provider took the action mentioned in subparagraph (iv);
- (d) for each serious incident at the service—
- (i) the nature of the incident; and
  - (ii) the date of the incident; and
  - (iii) the name of each resident affected by the incident; and
  - (iv) the name of staff of the residential service, if any, who witnessed the incident; and
  - (v) the name of staff of the residential service, if any, to whom the incident was reported; and
  - (vi) the action the service provider took in relation to the incident; and
  - (vii) the date the service provider took the action mentioned in subparagraph (vi).
- (3) If a residential service provides a food service to a resident, the service provider must make and keep a record of the resident's special dietary requirements, if any.

*Examples of special dietary requirements—*

- nutritional care plan made by a dietician
- allergies or food intolerances
- cultural observances

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- (4) If a residential service provides a personal care service to a resident, the service provider must make and keep a record of the following for the resident—
  - (a) the daily living and medical or health supports required by the resident;
  - (b) the name and contact details of the resident’s doctor;
  - (c) the name and contact details of each entity that referred the resident to the service, if known;
  - (d) the details of any instruction given by the resident to the service provider, an associate of the service provider or staff of the residential service about the personal care service.
- (5) A service provider for a residential service must keep a register of the records required to be kept under this section at the registered premises for the service.
- (6) The records mentioned in this section must be kept for at least 3 years after—
  - (a) the day a resident to whom the record relates leaves the residential service; or
  - (b) if the resident dies while residing at the residential service, the day the resident dies.
- (7) In this section—

*next of kin* includes spouse.

*substitute decision maker* means—

  - (a) an administrator appointed under the *Guardianship and Administration Act 2000*; or
  - (b) an attorney appointed under the *Powers of Attorney Act 1998*; or
  - (c) a guardian appointed under the *Guardianship and Administration Act 2000*.

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## 12 Fees

The fees payable under the Act are stated in schedule 1.

## Part 5 Transitional provisions

### 13 Retirement village schemes are not residential services for 2 years after commencement

- (1) For section 4(5)(n) of the Act, a retirement village scheme is not a residential service during the period starting on the commencement and ending 2 years after the commencement.
- (2) This section applies despite section 4(3).

### 14 Delayed application of particular provisions

- (1) A delayed provision does not apply in relation to an accreditation decision if the application for accreditation is made before 1 December 2018.
- (2) A service provider for a registered service is not required, under section 11(2)(d), to make and keep a record of the details of a serious incident at the service if the incident happens before 1 December 2018.
- (3) In this section—  
*delayed provision* means each of the following—
  - (a) section 6(3), entry for security and emergencies;
  - (b) section 6(4), entry for business management, third dot point;
  - (c) section 7(2);
  - (d) section 8(2), entry for human resource management.

## Schedule 1 Fees

### section 12

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1 Application for registration of a residential service (Act, s 10(2)(e)(i))	321.10
2 Application for accreditation of a residential service (Act, s 47(2)(d))—for each resident in the residential service when the application is made	32.10
3 Application for renewal of accreditation of a residential service (Act, s 50(3)(d))—for each resident in the residential service when the application is made	32.10
4 Application for an amendment of the accreditation of a residential service (Act, s 53(2))—for each resident in the residential service when the application is made	11.40
5 Application for a replacement accreditation certificate (Act, s 60(2))	40.60
6 Application for registration as the service provider for a registered service (Act, s 61(2)(f)(i))	163.80
7 Application for an amendment of the registration of a registered service (Act, s 64(2)(e))	242.40
8 Inspection of the register of undertakings (Act, s 152(2))	nil
9 Inspection of the register of residential services (Act, s 179(4)(a))	nil
10 Obtaining a certificate stating information shown in register of residential services (Act, s 179(4)(b))	22.30



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## Schedule 2      Dictionary

### section 3

***retirement village scheme*** means a retirement village scheme registered under the *Retirement Villages Act 1999*.

***serious incident***, in relation to a residential service, means—

- (a) an incident at the registered premises for the service that causes the death, serious injury or illness of a resident; or
- (b) an incident at the registered premises for the service that exposes a resident to a risk of death, serious injury or illness; or
- (c) an incident at the registered premises for the service that involves—
  - (i) the verbal, emotional, sexual or physical abuse of a resident; or
  - (ii) the neglect of a resident; or
  - (iii) the financial abuse of a resident.

***serious injury or illness***, of a resident, means an injury or illness that, if left untreated, would—

- (a) endanger, or be likely to endanger, the life of the resident; or
- (b) have, or be likely to have, a permanent adverse impact on the health of the resident.

ENDNOTES

- 1 Made by the Governor in Council on 30 August 2018.
- 2 Notified on the Queensland legislation website on 31 August 2018.
- 3 The administering agency is the Department of Housing and Public Works.

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