

South Australia

Supported Residential Facilities Regulations 2009

under the *Supported Residential Facilities Act 1992*

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Part 1—Interpretation

1—Short title

These regulations may be cited as the *Supported Residential Facilities Regulations 2009*.

3—Interpretation

In these regulations, unless the contrary intention appears—

Act means the *Supported Residential Facilities Act 1992*;

Building Code of Australia means the Building Code of Australia published by the Australian Building Codes Board, as in force from time to time, and as modified from time to time by the variations, additions or exclusions for South Australia contained in the code;

health service provider has the same meaning as in section 47 of the Act;

manager of a supported residential facility means—

- (a) if section 34 of the Act applies in relation to the facility—a person approved under that section;
- (b) in any other case—a proprietor of the facility;

night shift means the period of time beginning at 10 pm and ending at 7 am on the next day;

nursing home means a supported residential facility where nursing care is provided or offered on a continuing basis;

premises, in relation to a supported residential facility, includes the buildings, grounds, fixtures and fittings of the facility;

registered nurse means a registered nurse under the *Nurses Act 1999*.

Note—

For definition of divisional penalties (and divisional expiation fees) see Appendix.

Part 2—Licensing scheme

4—Licensing scheme

- (1) Pursuant to section 24(6) of the Act, the time within which a licensing authority should decide an application for a licence is 8 weeks after the application is made.
- (2) Pursuant to section 25(1)(f) of the Act, the relevant licensing authority must, in considering an application for a licence in respect of the use of premises (or proposed premises) as a supported residential facility, take into account the extent to which the premises (or proposed premises) accord with the standards prescribed by or under the Building Code of Australia.
- (3) Pursuant to section 27(2) of the Act, an application for the renewal of a licence must be made not less than 84 days (12 weeks) before the date of expiry of the licence.
- (4) For the purposes of section 36 of the Act, the prescribed notice that must be displayed by the proprietor of a facility in respect of which a licence has been issued is the notice set out in Schedule 2.

Part 3—Documentation

5—Prospectus

- (1) A prospectus relating to a supported residential care facility and the personal care services provided or offered at the facility must contain the following information:
 - (a) a general description of the nature of the facility according to the type or types of accommodation available at the facility;
 - (b) a general description of the types of services directly provided or offered at or by the facility, and the current fees or charges for those services;
 - (c) if the services offered at the facility include the management of personal finances—details of—
 - (i) the various options available for the management of money held on behalf of residents; and
 - (ii) the kinds of records and accounts that are kept by the facility; and
 - (iii) the arrangements observed at the facility for the provision of information to a resident whose finances are managed by the facility;
 - (d) details of any rules or policies that apply to residents;
 - (e) details of the rights and responsibilities of residents;
 - (f) the number of residents who can be accommodated at the facility;
 - (g) details of—
 - (i) any amount payable on becoming a resident; and
 - (ii) recurrent fees or charges payable by a resident; and

- (iii) to the extent that an amount, fee or charge is not a fixed sum—the nature of the amount, fee or charge, its purpose and its method of calculation; and
 - (iv) any provision for the variation of an amount, fee or charge;
 - (h) the procedures by which a resident who makes a financial contribution to the facility can obtain information on the financial management of the facility;
 - (i) any amount payable to or by a person when he or she ceases to be a resident.
- (2) A copy of the prospectus, and a copy of any alteration to the prospectus, must—
 - (a) be lodged by the proprietor of the facility with the relevant licensing authority within 14 days after the prospectus or alteration is brought into effect; and
 - (b) be accompanied by a written statement, signed by the proprietor, setting out—
 - (i) the date on which the prospectus or alteration came into effect; and
 - (ii) if the prospectus or alteration relates to an existing facility—details of any consultation or discussions that have occurred with residents in relation to the matter.

6—Resident contracts and service plans

- (1) A proprietor of a supported residential facility may enter into a resident contract with a resident at any time before personal care services are provided to the resident.
- (2) A proprietor of a supported residential facility must enter into a resident contract with a resident within 7 days after personal care services are first provided to the resident.
- (3) Before a person enters into a resident contract, the proprietor must ensure that—
 - (a) the person is given a copy of each of the following documents:
 - (i) a statement in the form of Schedule 3 containing the information as required under that Schedule;
 - (ii) a service plan that complies with the requirements of subregulation (4) prepared for the person;
 - (iii) the rules and policies that will apply to the person as a resident of the facility; and
 - (b) a checklist against which the person may ensure that he or she—
 - (i) has been given a copy of each of the documents referred to in paragraph (a); and
 - (ii) has been informed—
 - (A) of his or her rights and responsibilities under the contract; and
 - (B) of the procedure for making a complaint about the management of the facility; and
 - (c) the person (or his or her representative) understands the nature and effect of the contract, and the rights and responsibilities of the person under the contract.

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- (4) A service plan for a resident of a facility must be prepared in consultation with the resident and his or her representatives, and must include the following information:
- (a) the exact details of the personal care services to be provided to the resident, including the nature, extent and frequency of the provision of those services;
 - (b) instructions to members of the staff of the facility relating to the provision of those services;
 - (c) the name, address and telephone number of the resident's chosen medical practitioner;
 - (d) current information on the general state of health of the resident, and any instructions or information relating to the health or care of the resident given to a staff member by the resident's medical practitioner or other health service provider who is directly involved in the care of the resident;
 - (e) any other information required to be included in the service plan under these regulations.
- (5) The resident contract must—
- (a) include the following information:
 - (i) whether the resident will be accommodated in a single room or share room (and, if a share room, the number of other residents with whom he or she will be sharing);
 - (ii) how often the resident's room is to be cleaned;
 - (iii) the rights of the resident under the contract;
 - (iv) the responsibilities of the resident under the contract and the consequences of any failure of the resident to fulfil those responsibilities; and
 - (b) include a provision to the effect that if the resident is absent from the facility for a period specified in the contract (which must not exceed 14 days), the fees and charges payable by the resident under the contract on a recurrent or ongoing basis will be reduced to the extent specified in the contract (which must be not less than 30%) for the period of the absence; and
 - (c) have attached to it a copy of the service plan (as revised from time to time in accordance with subregulation (7)) for the resident detailing the personal care services that are to be provided to the resident.
- (6) The proprietor must ensure that—
- (a) a copy of the contract (with the service plan attached) is given to the resident at the time the resident becomes a party to the contract; and
 - (b) any inconsistency between the terms and conditions of the contract and the prospectus for the facility is expressly noted in the contract and acknowledged by the parties to the contract by specific endorsement on the contract; and
 - (c) a fully executed copy of the contract and attached service plan is kept in a secure and confidential place at the facility at all times; and

- (d) the contract and service plan are made available at any reasonable time, on request, to—
 - (i) the resident and his or her representative; and
 - (ii) a medical practitioner or other health service provider involved in providing care to the resident.
- (7) A service plan for a resident of a facility must, in consultation with the resident (or, if appropriate, a representative of the resident)—
 - (a) be reviewed and, if necessary, revised each time the resident experiences or suffers a significant occurrence or deterioration that adversely affects the resident's health or well-being; and
 - (b) in any case—be reviewed at least once every 12 months and, if necessary, revised.

7—Visitors book and other records

- (1) The proprietor of a supported residential facility must ensure that a book is kept at the facility's main office or some other convenient place at the facility in which a record containing the following information is kept of each visitor to the facility:
 - (a) the name of the visitor;
 - (b) the name of the resident to be visited;
 - (c) the purpose of the visit;
 - (d) the time of arrival;
 - (e) the time of departure.
- (2) The proprietor of a supported residential facility must ensure (whether as part of a service plan or otherwise) that the following records are maintained in an appropriate manner at the facility in respect of each resident:
 - (a) the resident's full name, age, gender, and date of admission;
 - (b) the name and address of the resident's next of kin and of any representative;
 - (c) the resident's medical records;
 - (d) details of any visit to or examination of the resident undertaken at the facility by a medical practitioner or other health service provider, including any results, directions and instructions provided in relation to the resident by the medical practitioner or other health service provider;
 - (e) details of any special procedure or precaution that must be taken to protect the resident's personal safety, and the safety of others;
 - (f) details of any direction or instruction given by the resident to the proprietor or a member of the staff of the facility;
 - (g) the date on which the resident is discharged from or leaves the facility, or the date of his or her death.
- (3) The proprietor must ensure that records in respect of a resident required under subregulation (2) to be maintained—
 - (a) are kept in a secure and confidential place at the facility; and

- (b) are made available at any reasonable time, on request, to the resident or his or her representative (if any), or to a medical practitioner or other health service provider; and
- (c) are retained for at least 5 years—
 - (i) if the resident dies while still a resident of the facility—after the date of his or her death; or
 - (ii) after the date on which the resident leaves the facility.

Part 4—Standards of care

8—Privacy, dignity and respect

The proprietor of a supported residential facility must ensure that the following standards are observed in relation to the provision of personal care services to residents, and the operation, of the facility:

- (a) assistance must be offered and provided discreetly and sensitively and, if appropriate, with a reasonable degree of privacy;
- (b) a resident must, so far as is reasonably practicable, be able to display, or to store safely (according to the resident's choice), his or her personal effects;
- (c) the personal property of a resident must not be used by another person without the resident's permission;
- (d) a resident must not be required to observe unreasonable routines with regard to meal times, bed times, bathing and dressing;
- (e) personal information relating to a resident must be treated on a confidential basis;
- (f) a resident must not be expected or required to share clothing, other items of a personal nature, or toiletries, with another person;
- (g) a resident must be afforded privacy, if he or she so desires, when engaged in conversation with a visitor, a medical practitioner or other health service provider, or another resident;
- (h) a resident must be afforded a reasonable degree of privacy when bathing, showering, toileting or dressing (whether alone or with assistance).

9—Personal hygiene

The proprietor of a supported residential facility must ensure that a resident of the facility is able (or assisted) to maintain personal hygiene in a manner consistent with the resident's needs and preferences.

10—Nutrition

The proprietor of a supported residential facility must ensure that the following standards are observed in relation to the nutrition of a resident of the facility:

- (a) the resident must receive suitable and sufficient food and drink, taking into account the resident's particular dietary needs and cultural background;

- (b) steps must be taken to ensure that food has reasonable nutritional value and that a variety of food is made available to the resident over a reasonable period of time;
- (c) adequate supplies of potable water must always be available;
- (d) special dietary requirements and eating difficulties that require assistance must be recorded in the resident's service plan;
- (e) meals must be provided at appropriate intervals, and at an appropriate temperature, to the resident;
- (f) tea and coffee making facilities, and cool drink storage facilities, must be made available to the resident during the day.

11—Mobility

The proprietor of a supported residential facility must ensure that both of the following standards are observed in relation to the mobility of a resident of the facility:

- (a) the resident must be provided with reasonable assistance to facilitate mobility and independence of movement (if required);
- (b) steps must be taken to ensure that a mobility aid or equipment used by the resident is in good working order,

(but a proprietor is not responsible by virtue of these regulations for the provision of a mobility aid or equipment, or for any costs associated with the maintenance of a mobility aid or equipment).

12—Activities

The proprietor of a supported residential facility must ensure that a resident of the facility is not prevented from participating in an activity within or outside the facility, provided that the resident does not unreasonably infringe on the rights, peace, comfort or privacy of another person.

13—Medication

The proprietor of a supported residential facility must ensure that the following standards are observed in relation to the management of the medication of a resident of the facility:

- (a) the resident's medication must be—
 - (i) clearly identified; and
 - (ii) stored separately from the medication of other residents in a secure place—
 - (A) in the container in which the medication was dispensed or supplied; or
 - (B) if appropriate—in a dose administration container bearing a label that includes—
 - the resident's name; and
 - the generic name and strength of the drug; and

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- the dosage instructions for the resident; and
- (b) —
- (i) if appropriate—the resident must be encouraged to manage his or her own medication;
 - (ii) if there is doubt about the resident's ability to manage his or her own medication or uncertainty about the resident's medication—the advice of the resident's medical practitioner, or of a registered nurse, must be obtained;
- (c) information about arrangements, instructions or directions for the proper management or administration of medication to the resident must be recorded in the resident's service plan and be readily available to the staff of the facility;
- (d) if the resident—
- (i) experiences an adverse reaction to medication; or
 - (ii) fails to respond to medication in an appropriate manner; or
 - (iii) fails to comply with an instruction or direction relevant to the management or administration of medication,
- a report must be made to the resident's medical practitioner or to a registered nurse.

14—Notification of certain events

- (1) The proprietor of a supported residential facility must ensure that the following notifications are made in respect of a resident of the facility:
- (a) if there is any significant deterioration in or other event adversely affecting (or that could adversely affect) the health or well-being of the resident—
 - (i) the resident's chosen medical practitioner and representative (if any) must be informed of the situation; and
 - (ii) details of the situation and reporting must be included in the resident's service plan;
 - (b) if any untoward medical event occurs in relation to the resident—the relevant licensing authority must be informed of the event;
 - (c) if the resident dies (whether at the facility or elsewhere)—the coroner must be informed of the resident's death.
- (2) If it appears that a resident of a supported residential facility is failing to comply with the advice or recommendations of a medical practitioner or other health service provider, the proprietor of the facility must ensure that reasonable steps are taken to discuss the matter with the resident or his or her representative (if any) and, if appropriate, with the medical practitioner or health service provider.

15—Personal finances

- (1) The proprietor of a supported residential facility must ensure that the following standards are observed in relation to the management of the personal finances of a resident of the facility:
 - (a) —
 - (i) if appropriate—the resident must be encouraged to manage his or her own personal finances;
 - (ii) if the resident is incapable of managing his or her own personal finances—an appropriate person or authority must be contacted about the appointment of an administrator, agent or representative for the resident;
 - (b) any amount received on behalf of the resident must be kept in a special account;
 - (c) accurate and complete financial records must be maintained in respect of any aspect of the resident's financial affairs managed at the facility.
- (2) The proprietor must ensure that records in respect of a resident required under subregulation (1)(c) to be maintained—
 - (a) are kept in a secure and confidential place at the facility; and
 - (b) are made available at any reasonable time, on request, to the resident or his or her representative (if any); and
 - (c) are retained for at least 5 years—
 - (i) if the resident dies while still a resident of the facility—after the date of his or her death; or
 - (ii) after the date on which the resident leaves the facility.

Part 5—Staffing arrangements

Division 1—Management requirements

16—Responsibilities of manager

- (1) The manager of a supported residential facility must take overall responsibility for the day to day management of the facility and, in particular, must—
 - (a) ensure that the proper oversight and care of the residents of the facility and personal care services are provided in accordance with each resident's needs; and
 - (b) ensure that the facility, and furnishings, fittings and equipment within the facility, are kept clean and safe, and in good repair; and
 - (c) maintain such records as are required for the purposes of the Act and these regulations; and
 - (d) be in attendance at the facility for at least 25 hours in each week; and

- (e) ensure, at all times when he or she is not in attendance, that the facility is under the supervision of an acting manager or some other person who is competent to supervise the day to day management of the facility; and
- (f) maintain a register of staff that includes, in relation to each member of the staff—
 - (i) his or her full name and contact details; and
 - (ii) the qualifications (if any) held by the staff member; and
- (g) maintain a staff roster (to be kept at the facility's main office or some other convenient place at the facility) that—
 - (i) specifies the staff members rostered for duty during a particular roster period; and
 - (ii) provides details of the name and telephone number of the person to be contacted during a particular roster period in the event of an emergency or other significant event at the facility; and
- (h) without limiting any other requirement concerning minimum staffing levels—
 - (i) if there are 30 or more residents of the facility—ensure that the staff includes both a cook and a cleaner in addition to the members of the staff who provide personal care services to residents of the facility; and
 - (ii) in any case—ensure that the facility is staffed so as to ensure, at all times, the proper care and safety of residents; and
- (i) comply with any other requirements placed on the manager under these regulations.

Penalty: Division 7 fine.

Expiation fee: Division 7 fee.

- (2) The proprietor of a supported residential facility must ensure that sufficient resources are provided at the facility to enable the manager to comply with the requirements of these regulations.

17—Acting managers

- (1) If, for a period exceeding 7 days, a manager is absent from the duties of office, or the position of manager is temporarily vacant and a resident of the facility is in need of personal care services, an acting manager must be appointed or otherwise assume the duties of the office of manager.
- (2) An acting manager must be approved by the relevant licensing authority for the purposes of this regulation.
- (3) A facility must not have an acting manager for a period exceeding 3 consecutive months.

18—Management of nursing homes

- (1) The proprietor of a nursing home must ensure that the provision of nursing care at the facility is overseen by a registered nurse who is approved by the relevant licensing authority as being a person who has appropriate qualifications, skills and experience to perform that function at the facility.
- (2) If there is a change in the type or level of services provided at a nursing home, the relevant licensing authority may, by notice in writing to the proprietor, revoke an approval under subregulation (1) and require that a new appointment be made to ensure that the person who oversees the provision of nursing care at the facility has the qualifications, skills and experience appropriate to the facility.
- (3) A person who is approved by the relevant licensing authority for the purposes of this regulation will hold the title "Director of Nursing" (and the Director of Nursing may, but need not, be the manager of the relevant facility).
- (4) A person who, immediately before the commencement of this regulation, held the office of Director of Nursing at a nursing home will be taken to have been granted an approval for the purposes of subregulation (1).

Division 2—Staffing requirements

19—Staffing levels—nursing homes

- (1) The proprietor of a nursing home where not more than 16 persons who require nursing care reside must ensure that the following prescribed minimum staffing levels are maintained at the nursing home:
 - (a) subject to paragraph (b), a registered nurse must be on duty and another nursing staff member must be on close call at all times; and
 - (b) a registered nurse need not be on duty on the premises during the night shift if—
 - (i) he or she is on close call; and
 - (ii) there is another nursing staff member on duty during that time;
 - (c) an adequate number of nursing staff members and therapists must be employed to ensure the proper care of the residents; and
 - (d) there must be sufficient domestic staff members on duty—
 - (i) to maintain the premises in a clean condition; and
 - (ii) to prepare, serve and clear away meals; and
 - (iii) to maintain adequate laundry and linen services.
- (2) The proprietor of a nursing home where more than 16 persons who require nursing care reside must ensure that the following prescribed minimum staffing levels are maintained at the nursing home:
 - (a) 2 nursing staff members (at least 1 of whom must be a registered nurse) must be on duty at all times;
 - (b) an adequate number of nursing staff members and therapists must be employed to ensure the proper care of the residents;

- (c) there must be sufficient domestic staff members on duty—
- (i) to maintain the premises in a clean condition; and
 - (ii) to prepare, serve and clear away meals; and
 - (iii) to maintain adequate laundry and linen services.
- (3) In this regulation—
- domestic staff** means persons involved with housekeeping functions in a nursing home and includes a cook, cleaner, laundry worker, gardener or maintenance person;
- general nurse (supervised)** means a person enrolled as a general nurse (supervised) under the *Nurses Act 1999*;
- nursing home assistant** means a person who is not a registered nurse or a general nurse (supervised), but whose work is concerned with the personal care of individual residents at a nursing home;
- nursing staff member** includes a registered nurse, a general nurse (supervised) or a nursing home assistant;
- therapist** means an occupational therapist, speech therapist, physiotherapist, podiatrist, recreational therapist or other person whose profession or occupation involves assisting in the rehabilitation of patients.
- (4) For the purposes of this regulation, a person is **on close call** at a nursing home if—
- (a) the person is on the premises of the nursing home and can be summoned to attend immediately by a nursing staff member on duty; or
 - (b) the person is on premises within close proximity to the nursing home and has a means by which he or she can be summoned to attend immediately by a nursing staff member on duty.

20—Staffing levels—other facilities that provide nursing care

If a supported residential facility that is not a nursing home nevertheless provides nursing care, the proprietor of the facility must ensure that the staff of the facility includes a registered nurse.

Part 6—Facilities, hygiene and safety

21—Facilities, hygiene, maintenance etc

- (1) The proprietor of a supported residential facility must ensure that—
- (a) the facility, and all furniture, fixtures and fittings at the facility, are maintained—
 - (i) in a clean, safe and hygienic condition; and
 - (ii) in good and safe repair; and
 - (b) except as otherwise approved by the relevant licensing authority—the facility is fitted with a kitchen that has—
 - (i) adequate lighting and ventilation; and
 - (ii) reasonable space; and

- (iii) appropriate equipment; and
 - (c) each resident of the facility is provided at each meal with eating and drinking utensils that are clean and of good quality; and
 - (d) each resident of the facility is provided with clean bed linen or a clean mattress as often as is reasonably appropriate to the resident's personal needs and comfort; and
 - (e) adequate and reasonable bathing facilities are provided at the facility for each resident of the facility; and
 - (f) adequate laundry facilities or services are provided for each resident of the facility; and
 - (g) the facility is designed, constructed and fitted in a manner that facilitates reasonable movement about the facility; and
 - (h) rooms and passages within the facility, and the grounds of the facility, are reasonably lighted; and
 - (i) the facility is reasonably ventilated; and
 - (j) the facility contains a communal area the temperature of which is maintained (by heating or cooling) at an appropriate level for use by residents and visitors; and
 - (k) rooms occupied by residents of the facility are, so far as is reasonably practical, maintained at a temperature that is reasonably comfortable for the residents; and
 - (l) a reasonable number of appropriate waste receptacles are readily available throughout the facility; and
 - (m) sufficient storage facilities are provided at the facility for appliances, surplus furniture and equipment, residents' baggage, and other surplus items, so that—
 - (i) the facility can be maintained in a clean and tidy condition; and
 - (ii) persons can move safely about the facility; and
 - (n) the grounds of the facility are provided with adequate areas of shade and suitable outdoor furniture so as to enable residents of the facility to spend a reasonable period of time outdoors in a comfortable and pleasant environment.
- (2) The proprietor of a nursing home, or other supported residential facility that provides accommodation for disoriented residents, must ensure that the facility has an area within its grounds that can be used safely by those residents.
- (3) Without limiting subregulation (1)—
- (a) a grab rail must be fitted in each shower cubicle, water closet and bathroom in accordance with *Australian Standard AS1428 - 2001*; and
 - (b) hand washing facilities must be easily accessible for residents and staff; and
 - (c) a reasonable supply of hot water—

- (i) for the residents' bathing purposes—must be provided at a temperature that does not cause scalding; and
- (ii) must be available for use—
 - (A) by the residents at any reasonable time; and
 - (B) in washing machines at the facility or laundry service provider; and
- (d) bedding that is soiled by urine or faeces must be washed separately and in hot water; and
- (e) handrails, ramps and (for a multi-storey building) lifts must be fitted if required by the relevant licensing authority.

22—Bedrooms

- (1) The proprietor of a supported residential facility must ensure that—
 - (a) each resident in the facility is allocated a bedroom and his or her own bed; and
 - (b) before a resident is allocated to another bedroom in the facility—the resident, or his or her representative, is consulted; and
 - (c) a floor plan of the bedrooms at the facility (including the names of the residents who sleep in each room) is maintained at the facility's main office or at some other convenient location at the facility.
- (2) The proprietor of a supported residential facility established after the commencement of this regulation must ensure that each bedroom in the facility is—
 - (a) designed for single occupancy; and
 - (b) contains a bed.
- (3) Nothing in this regulation prevents a resident of a supported residential facility that is, on the commencement of this regulation, licensed from being allocated a bedroom on a share basis, provided the resident is allocated his or her own bed.

23—Fire safety

- (1) The proprietor of a supported residential facility must ensure that reasonable precautions are taken to protect the safety of residents of the facility from fire.
- (2) Without limiting subregulation (1) and other statutory requirements—
 - (a) reasonable means of emergency exit for residents must be available at all times; and
 - (b) the facility must be maintained and managed in accordance with any recommendation of the relevant fire authority; and
 - (c) a sprinkler system that complies with *Australian Standard AS 2118 Part 4* must be installed and maintained in the facility; and
 - (d) fire fighting equipment must be installed and maintained at the facility in accordance with any recommendation of the relevant fire authority; and
 - (e) emergency exits must be clearly marked and kept free of impediments; and

- (f) an evacuation procedure for residents of the facility must be established at the facility and known to all staff and residents; and
 - (g) regular evacuation drills must be undertaken at the facility; and
 - (h) a floor plan or plans that show fire exits and emergency evacuation routes must be kept in an accessible place at the facility at all times.
- (3) Subregulation (2)(c) does not apply to a supported residential facility—
- (a) that is, on the commencement of this regulation, licensed; or
 - (b) if, at all times during the night shift, there are at least 2 members of the staff (who may not be residents of the facility) in attendance at the facility.

24—Communication facility

- (1) The proprietor of a supported residential facility must, at the direction of the relevant licensing authority, ensure that a communication system is installed at the facility.
- (2) The proprietor of a supported residential facility must ensure that—
- (a) any communication system installed at the facility is maintained in a fully functional state; and
 - (b) reasonable steps are taken to ensure that each resident of the facility understands how to operate the system.

Part 7—Miscellaneous

25—Disputes

- (1) The proprietor of a supported residential facility must ensure that—
- (a) a procedure for the resolution of disputes within the facility is established at the facility; and
 - (b) the procedure includes the following provisions:
 - (i) a provision that allows for the involvement of an independent person to assist or represent a resident who requests or needs assistance in a situation of dispute;
 - (ii) if there is a significant dispute—a provision that allows for the involvement of an authorised officer to assist in the resolution of the dispute; and
 - (c) the procedure is incorporated in the rules of the facility; and
 - (d) a complaint made by a resident of the facility to the proprietor or a staff member is dealt with in a prompt and reasonable manner and, if appropriate, on a confidential basis.

Penalty: Division 7 fine.

Expiation fee: Division 7 fee.

- (2) In this regulation—

significant dispute means a dispute at the facility which is reported to a police officer.

26—Indemnity fund

- (1) Pursuant to section 56(4) of the Act, the prescribed percentage of licensing fees, expiation fees and fines to be paid to the Supported Residential Facilities Indemnity Fund (the *fund*) is 10%.

Note—

See clause 3 of Schedule 1 for the licensing fees.

- (2) The amounts payable to the fund under section 56(4) of the Act must be remitted to the Fund Manager within 28 days after the end of the financial year in which they are received by the relevant authority.
- (3) A claim for payment from the fund must be made, assessed and determined in accordance with the following procedures:
 - (a) the claim must be made in writing and addressed to the Fund Manager;
 - (b) the claim must be accompanied or supported by information required by the Fund Manager;
 - (c) the Fund Manager may require the claimant to attend before the Fund Manager to answer questions, or to provide additional information, reasonably required by the Fund Manager to determine the claim;
 - (d) the Fund Manager should seek to assess and determine the claim as expeditiously as possible and, in any event, within 8 weeks after the receipt of the information supplied to the Fund Manager in accordance with this regulation;
 - (e) the Fund Manager must ensure that written notice of his or her determination is served on the claimant.

27—False advertising

A person must not promote or advertise, or cause to be promoted or advertised, a supported residential facility as a nursing home unless—

- (a) the facility is approved as a nursing home under the *National Health Act 1953* of the Commonwealth; or
- (b) the facility complies with the requirements of these regulations that specifically relate to nursing homes.

Penalty: Division 7 fine.

Expiation fee: Division 7 fee.

28—Offences

If a provision of Part 3, Part 4, Part 5 or Part 6 of these regulations is not observed, the proprietor of the relevant supported residential facility is guilty of an offence.

Penalty: Division 7 fine.

Expiation fee: Division 7 fee.

Schedule 1—Fees

- 1 Inspection fee for inspection of premises (section 22(1)(a)(iii) of the Act) \$184

Note—

This fee must be paid by the proprietor of the premises within 7 days after the completion of the inspection.

- 2 Application fees—

Note—

The fee for an application must be paid at the time the application is lodged.

- (a) on lodging an application for a licence (section 24(2) of the Act) \$77
(b) on lodging an application for the renewal of a licence (section 27(1)(b) of the Act) \$77
(c) on lodging a late application for the renewal of a licence (section 27(3) of the Act) \$46

Note—

The fee under this paragraph is in addition to the fee under paragraph (b)

- (d) on lodging an application for the transfer of a licence (section 30(2)(b) of the Act) \$77
(e) on lodging an application in relation to a dispute (section 43(5)(c) of the Act) \$46

- 3 Licensing fees—

- (a) on a decision to grant a licence \$358

Notes—

- (1) This fee must be paid within 7 days after the applicant receives written notification from the licensing authority that the application for a licence has been approved.
(2) If the term of the licence is less than 12 months, the licence fee is a proportion of the fee under this paragraph, being the proportion that the number of whole months in the period of the licence bears to 12.

- (b) if the term of a licence exceeds 12 months, an annual licence fee is payable on the anniversary of the granting of the licence \$358

Notes—

- (1) This fee must be paid within 7 days after the anniversary of the granting of the licence.
(2) If the licence is due to expire before the second anniversary of the granting of the licence, the annual licence fee is a proportion of the fee under this paragraph, being the proportion that the number of whole months in the period between the first anniversary of the granting of the licence and the date on which the licence is due to expire bears to 12.

(c) on a decision to renew a licence \$358

Notes—

- (1) This fee must be paid within 7 days after the applicant receives written notification from the licensing authority that the application for renewal has been approved.
- (2) If the term of a licence on renewal is less than 12 months, the licence fee is a proportion of the fee under this paragraph, being the proportion that the number of whole months in the period of the licence bears to 12.

Schedule 2—Form of notice to be displayed

Supported Residential Facilities Act 1992 (section 36)

These premises are licensed under the *Supported Residential Facilities Act 1992*.

The licence was issued on _____ (*insert relevant date*) and the relevant licensing authority for the facility is _____ (*insert relevant details*)

The proprietor(s) of the facility is/are: _____ (*insert full name, address and telephone number*)

The manager of the facility is: _____ (*insert full name of manager*)

The licence will expire on: _____ (*insert relevant date*)

Signature of Authorised Officer:

Date:

Schedule 3—Statement to be provided to a person before the execution of a resident contract

Supported Residential Facilities Act 1992 (section 38)

You should seek independent legal advice if you are unsure about any aspect of—

- this document; or
- any document which you are required to sign or which is provided to you,

in relation to your residency at a supported residential facility.

You have a period of 15 business days after—

- the date of any contract which you may sign; or
- the date of the supply of—
 - this statement; and
 - the rules and policies; and
 - your service plan,

(whichever is the later), in which you may withdraw from the contract.

You are advised to read and carefully consider any documents provided to you.

The following information is provided to you in relation to the facility and services:

1 The facility

1.1 The facility is situated at:

(insert address)

1.2 The name(s) and contact address(es) and telephone number(s) of the proprietor(s) of the facility is/are as follows:

(insert details)

2 Your accommodation

2.1 The type of accommodation that is available to you is as follows:

(specify)

2.2 A layout of the accommodation is attached to this document.

(attach a plan of the layout)

2.3 The location of the accommodation within the facility is noted on the attached plan.

(attach a plan of the facility showing location of the accommodation)

3 Services that may be provided to you

3.1 You will be provided with the following personal care services by the facility:

(provide details of the personal care services that will be provided)

3.2 The following services will also be available at the facility:

(specify other services that are available to residents of the facility)

3.3 The following equipment will be available to you at the facility:

(specify equipment available at the facility)

3.4 The following special (and additional) arrangements are being made for you, or on your behalf:

(provide details of any such arrangements)

3.5 The following restrictions may affect the provision of the above services:

(provide details of any such restrictions)

4 Your payments

4.1 You are required to pay the following amounts on the commencement of the resident contract (*or on or before you commence to reside at the facility*):

(insert a table containing a brief description of each such payment and the amount payable)

4.2 Recurrent charges

The following fees and charges are payable while you remain a resident of the facility:

(insert a brief description of each such fee or charge and the amounts payable)

This covers the following services/items:

(insert a list providing details of those services/items covered by the payments)

The fee or charge was last adjusted on the following date: *(insert relevant date)*

when it was adjusted by: *(insert amount in dollars)*

In respect of the last adjustment, residents were given *(insert relevant number of days, weeks or months)*

days/weeks/months *(delete whatever is not relevant)* notice of the adjustment.

The estimated date of the next adjustment will be on the following date:

(insert date)

4.3 The following fees or charges (not mentioned above) may become payable in the future:

(insert a brief description of each such fee or charge and the amount, if known, that may become payable)

4.4 You are entitled to the following amounts when you cease to be a resident of the facility:

(insert amounts to be refunded)

4.5 Before an amount is paid under 4.4, the following conditions must be met:

(insert details of the conditions)

5 Routines and times

5.1 The following routines apply at the facility:

(insert brief description)

5.2 You will be expected to observe the following time requirements while you are a resident of the facility:

(insert brief description)

6 Complaints

You may wish to make a complaint about the accommodation or services provided at the facility, or about any other aspect of the facility. If so, the following procedures should be observed:

(set out the procedures)

7 Your future position

7.1 Your contract must be terminated in writing. The contract requires you to take the following action to terminate the contract:

(set out the action)

7.2 It is proposed that the contract may require review or renegotiation in the following circumstances:

(insert brief description)

8 Your future obligations

You may be required to observe certain rules and policies. Please ensure that you read a copy of any rules or policies before you agree to sign any documents

Note—

In all sections, delete comments where not applicable and add comments where required.

For facilities under construction

It is not always possible for the proprietor to provide accurate information regarding the future of a facility that is under construction.

If necessary, the proprietor of the facility should provide the best available information and best estimates regarding work to be completed. Prospective residents considering residing in a facility that is not yet completed should treat the matter with caution.

In addition to facilities already completed at the time of this document, the following facilities are under construction or planned:

1 Facilities

1.1 Accommodation

Development Stage No: *(if applicable)*

Supported Residential Facilities Regulations 2009—1.7.2017 to 30.6.2018

Schedule 3—Statement to be provided to a person before the execution of a resident contract

Independent units—

No of units: Est completion date:

No of units: Est completion date:

No of units: Est completion date:

Serviced apartments (Hostel units)—

No of units: Est completion date:

No of units: Est completion date:

No of units: Est completion date:

Other (*specify*)

1.2 Communal facilities:

(*specify the proposed communal facilities and the estimated completion date*)

Development Stage No: (*if applicable*)

1.3 Gardens: (*insert brief description*)

1.4 Outdoor facilities: (*insert brief description*)

2 Proposed services

(*insert information*)

3 Development consents

The following information describes any conditions or requirements of development consent affecting the construction and/or services to be provided by the proprietor:

(*insert information*)

Note—

In all sections, delete comments where not applicable and add comments where required.

Legislative history

Notes

- Variations of this version that are uncommenced are not incorporated into the text.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Legislation revoked by principal regulations

The *Supported Residential Facilities Regulations 2009* revoked the following:

Supported Residential Facilities Regulations 1994

Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2009	210	<i>Gazette 23.7.2009 p3386</i>	1.9.2009: r 2
2017	112	<i>Gazette 22.6.2017 p2286</i>	1.7.2017: r 2
2018	129	<i>Gazette 21.6.2018 p2352</i>	1.7.2018: r 2

Provisions varied

New entries appear in bold.

Provision	How varied	Commencement
r 2	omitted under <i>Legislation Revision and Publication Act 2002</i>	1.7.2017
Sch 1	substituted by 112/2017 r 4	1.7.2017
Sch 4	omitted under <i>Legislation Revision and Publication Act 2002</i>	1.7.2017

Appendix—Divisional penalties and expiation fees

At the date of publication of this version divisional penalties and expiation fees are, as provided by section 28A of the *Acts Interpretation Act 1915*, as follows:

Division	Maximum imprisonment	Maximum fine	Expiation fee
1	15 years	\$60 000	—
2	10 years	\$40 000	—
3	7 years	\$30 000	—
4	4 years	\$15 000	—
5	2 years	\$8 000	—
6	1 year	\$4 000	\$300
7	6 months	\$2 000	\$200
8	3 months	\$1 000	\$150

Supported Residential Facilities Regulations 2009—1.7.2017 to 30.6.2018
Appendix—Divisional penalties and expiation fees

Division	Maximum imprisonment	Maximum fine	Expiation fee
9	—	\$500	\$100
10	—	\$200	\$75
11	—	\$100	\$50
12	—	\$50	\$25

Note: This appendix is provided for convenience of reference only.