
Residential Care Homes Legislation (Miscellaneous Amendments) Bill 2022

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A BILL

To

Amend the Residential Care Homes (Elderly Persons) Ordinance, the Residential Care Homes (Persons with Disabilities) Ordinance and their subsidiary legislation to enhance the accountability of operators of residential care homes for the elderly and residential care homes for persons with disabilities; to abolish the certificate of exemption regime for residential care homes for the elderly; to provide for the registration of home managers and the renewal of registration of health workers; to raise the minimum staffing requirements; to increase the minimum area of floor space per resident; to provide for the administration of medicine, the use of restraints and the protection of residents' dignity and privacy; to increase the penalties for certain offences; to set out the deadline for prosecuting offences; to provide for transitional and related matters; and to make miscellaneous and textual amendments.

Enacted by the Legislative Council.

Part 1

Preliminary

1. Short title and commencement

- (1) This Ordinance may be cited as the Residential Care Homes Legislation (Miscellaneous Amendments) Ordinance 2022.
- (2) Subject to subsections (3), (4), (5) and (6), this Ordinance comes into operation on the day on which it is published in the Gazette.
- (3) The following provisions come into operation on the 1st anniversary of the date on which this Ordinance is published in the Gazette (*material date*)—
 - (a) Part 2;
 - (b) Part 3, except sections 36(5), 50 (in so far as it relates to the new section 6 of Schedule 1 to the Residential Care Homes (Elderly Persons) Regulation (Cap. 459 sub. leg. A)) and 51;
 - (c) Part 4;
 - (d) Part 5, except sections 87(3), 105 (in so far as it relates to the new section 6 of Schedule 1 to the Residential Care Homes (Persons with Disabilities) Regulation (Cap. 613 sub. leg. A)) and 106;
 - (e) Part 6.
- (4) Sections 36(5) and 87(3) come into operation on the 1st anniversary of the material date.
- (5) Sections 51(1) and 106(1) come into operation on the 2nd anniversary of the material date.

- (6) Sections 51(2) and 106(2) come into operation on a day to be appointed by the Secretary for Labour and Welfare by notice published in the Gazette.

2. Enactments amended

The enactments specified in Parts 2 to 6 are amended as set out in those Parts.

Part 2

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

3. Section 2 amended (interpretation)

(1) Section 2—

Renumber the section as section 2(1).

(2) Section 2(1), English text, definition of *residential care home*—

Repeal the full stop

Substitute a semicolon.

(3) Section 2(1)—

Repeal the definition of *certificate of exemption*.

(4) Section 2(1)—

Add in alphabetical order

“**Cap. 613** (《第613章》) means the Residential Care Homes (Persons with Disabilities) Ordinance (Cap. 613);

Cap. 613A (《第613A章》) means the Residential Care Homes (Persons with Disabilities) Regulation (Cap. 613 sub. leg. A);

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;

material date (關鍵日期) means the 1st anniversary of the date on which the Residential Care Homes Legislation (Miscellaneous Amendments) Ordinance 2022 (of 2022) is published in the Gazette;

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;

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

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

- (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).”.

(5) After section 2(1)—

Add

“(2) To avoid doubt, in this Ordinance, a reference to this Ordinance includes any subsidiary legislation made under this Ordinance.”.

4. Section 3 amended (application)

(1) Section 3(1), English text—

Repeal

“shall”

Substitute

“does”.

- (2) After section 3(1)(b)—

Add

“(ba) a treatment centre as defined by section 2 of the Drug Dependent Persons Treatment and Rehabilitation Centres (Licensing) Ordinance (Cap. 566); or”.

- (3) After section 3(2)—

Add

“(3) An order under subsection (1)(c) is subsidiary legislation.”.

5. Section 6 amended (restriction on operating residential care homes unless exempted or licensed)

- (1) Section 6, heading—

Repeal

“**Restriction on operating residential care homes unless exempted or licensed**”

Substitute

“**Residential care homes must be licensed**”.

- (2) Section 6(1)—

Repeal

everything after “who” and before “and imprisonment”

Substitute

“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”.

- (3) Section 6—

Repeal subsection (2).

- (4) Section 6—

Repeal subsection (3)

Substitute

“(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.”.

- (5) Section 6(4)—

Repeal

everything after “also a”

Substitute

“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.”.

6. Section 6A amended (certain residential care homes for PWDs excepted from application of section 6)

Section 6A—

Repeal

everything after “also a”

Substitute

“residential care home for PWDs if a licence or certificate of exemption issued under Cap. 613 is in force in respect of the residential care home.”.

7. Part 3 repealed (certificates of exemption)

Part 3—

Repeal the Part.

8. Part 4, Division 1 heading added

Part 4, before section 8—

Add

“Division 1—Licence Applications”.

9. Section 8 amended (application for and issue of licence)

(1) Section 8(1), English text—

Repeal

“shall”

Substitute

“must”.

(2) Section 8(2), English text—

Repeal

“shall”

Substitute

“must”.

(3) Section 8(2)(a), English text—

Repeal

“he”

Substitute

“the Director”.

- (4) Section 8(2)(a), Chinese text—

Repeal

“持牌人”

Substitute

“營辦人”.

- (5) Section 8(3), English text—

Repeal

“him”

Substitute

“the Director”.

- (6) Section 8(3)(a)—

Repeal

“he”

Substitute

“the applicant”.

- (7) Section 8(3)(a), English text, after “fit”—

Add

“and proper”.

- (8) After section 8(3)(a)—

Add

“(ab) that the applicant does not comply with section 11A(1);

(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;”.

(9) Section 8(3)(c)—

Repeal

“structure”

Substitute

“construction”.

(10) Section 8(3)(d)—

Repeal subparagraphs (i), (ii) and (iii)

Substitute

“(i) the name of a residential care home in respect of which a licence is in force or has been suspended, surrendered or cancelled;

(ii) the name of a residential care home for PWDs in respect of which a licence issued under Cap. 613 is in force or has been suspended, surrendered or cancelled; or

(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.”.

(11) Section 8(3)(d)—

Repeal subparagraph (iv).

(12) Section 8(4), English text—

Repeal

“shall”

Substitute

“must”.

(13) Section 8(4A)—

Repeal

“the Residential Care Homes (Persons with Disabilities) Ordinance (Cap. 613)”

Substitute

“Cap. 613”.

(14) Section 8(5), English text—

Repeal

“shall be evidence”

Substitute

“is evidence”.

(15) Section 8(5), English text—

Repeal

“shall be received”

Substitute

“is to be received”.

(16) Section 8(6), English text—

Repeal

“shall be evidence”

Substitute

“is evidence”.

(17) Section 8(6), English text—

Repeal

“shall be received”

Substitute

“is to be received”.

10. Section 8A added

After section 8—

Add

“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.”.

11. Section 9 amended (renewal of licence)

(1) Section 9(1)—

Repeal

“A person holding a licence in respect”

Substitute

“The operator”.

(2) Section 9(2), English text—

Repeal

“shall”

Substitute

“must”.

(3) Section 9(3)—

Repeal

“by him”.

- (4) Section 9(4), English text—

Repeal

“shall take”

Substitute

“takes”.

- (5) Section 9(5)—

Repeal

“Any”

Substitute

“Subject to subsection (5A), any”.

- (6) Section 9(5)—

Repeal

everything after “and which”

Substitute

“, 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.”.

- (7) After section 9(5)—

Add

“(5A) Subsection (5) does not apply if—

- (a) the application is withdrawn; or
- (b) the licence is cancelled or suspended under section 10.”.

- (8) Section 9(6), English text—

Repeal

“shall have”

Substitute

“takes”.

12. Section 10 amended (cancellation and suspension of licence or refusal to renew and amendment or variation of conditions)

(1) Section 10(1)(a), English text—

Repeal

“him”

Substitute

“the Director”.

(2) After section 10(1)(a)—

Add

“(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;

(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;”.

(3) Section 10(1)(b)(i)—

Repeal

“person holding the licence”

Substitute

“operator”.

(4) Section 10(1)(c)(ii) and (d)—

Repeal

everything after “by the”

Substitute

“operator;”.

- (5) Section 10(1)(e), English text—

Repeal

“if it appears to him”

Substitute

“on the ground that it appears to the Director”.

- (6) Section 10(1)(e)(ii)—

Repeal

“that such persons”

Substitute

“the operator”.

- (7) Section 10(1)(e)(ii), English text—

Repeal

“control,”

Substitute

“have control of”.

- (8) Section 10(4)—

Repeal

“under the Residential Care Homes (Persons with Disabilities) Ordinance (Cap. 613)”

Substitute

“under Cap. 613”.

- (9) Section 10(4)—

Repeal

“of the Residential Care Homes (Persons with Disabilities) Ordinance (Cap. 613)”

Substitute

“of that Ordinance”.

13. Section 11 amended (notice of refusal of licence or renewal and of cancellation or suspension, etc.)

(1) Section 11, heading—

Repeal

“of licence or renewal”

Substitute

“to issue or renew licence”.

(2) Section 11(1)—

Repeal

“person holding the licence in respect”

Substitute

“operator”.

(3) Section 11(1)(b)—

Repeal

“person”

Substitute

“operator”.

(4) Section 11(3)—

Repeal

“person holding the licence”

Substitute

“operator”.

(5) Section 11(3)—

Repeal

“that person”

Substitute

“the operator”.

14. Part 4, Divisions 2 and 3 added

Part 4, after section 11—

Add

“Division 2—Responsible Persons

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 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.
- (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
- (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
 - (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)—
 - (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. 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

11J. Operator to report certain events

- (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 charge is laid against the operator or the responsible person of the residential care home for an offence in any place;
 - (ii) the operator or the responsible person is convicted of an offence in any place;
 - (iii) the operator or the responsible person becomes an undischarged bankrupt;
 - (iv) the operator or the responsible person enters into a composition or scheme of arrangement with their creditors;
 - (v) 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;

-
- (vi) 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 charge is laid against the operator or the responsible person of the residential care home for an offence in any place;
 - (ii) the operator or the responsible person is convicted of an offence in any place;
 - (iii) the operator goes into liquidation or becomes the subject of a winding-up order;
 - (iv) the operator or the responsible person enters into a composition or scheme of arrangement with their creditors;
 - (v) 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;
 - (vi) the responsible person becomes an undischarged bankrupt;
 - (vii) 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 charge is laid against any partner in the partnership (*partner*) or the responsible person of the residential care home for an offence in any place;
 - (ii) any partner or the responsible person is convicted of an offence in any place;

- (iii) any partner or the responsible person becomes an undischarged bankrupt;
- (iv) any partner goes into liquidation or becomes the subject of a winding-up order;
- (v) any partner or the responsible person enters into a composition or scheme of arrangement with their creditors;
- (vi) a body corporate of which any partner or the responsible person is a director goes into liquidation or becomes the subject of a winding-up order;
- (vii) there is a change in the name or correspondence address of the responsible person.”.

15. Section 12 amended (appeals against decisions of Director)

Section 12—

Repeal

“7,”.

16. Section 19 amended (Director may direct remedial measures)

(1) Section 19(1)—

Repeal

“him”

Substitute

“the Director”.

(2) Section 19(2)—

Repeal paragraph (a)

Substitute

“(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”.

(3) Section 19(2)(b), English text—

Repeal

“shall” (wherever appearing)

Substitute

“must”.

17. Section 20 amended (Director may order cessation of use of premises as a residential care home)

(1) Section 20(1)(a), English text—

Repeal

“him”

Substitute

“the Director”.

(2) Section 20(1), English text—

Repeal

“shall”.

(3) Section 20(1)—

Repeal

“he”

Substitute

“the Director”.

(4) Section 20(2)—

Repeal

everything after “section”

Substitute

“—

- (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.”.

- (5) Section 20(3), English text—

Repeal

“shall be”

Substitute

“is”.

18. Section 21 amended (offences in relation to certificates of exemption and licences)

- (1) Section 21, heading—

Repeal

“certificates of exemption and”.

- (2) Section 21—

Repeal subsections (1) and (2).

- (3) Section 21(3)—

Repeal

“on any occasion”.

- (4) Section 21(3)(a), (b) and (c), English text—

Repeal

“so issued”.

- (5) Section 21(4)—

Repeal

everything before “of the residential”

Substitute

“(4) If a condition of a licence issued in respect of a residential care home is contravened, the operator”.

(6) Section 21(4)—

Repeal

“he” (wherever appearing)

Substitute

“the operator”.

(7) Section 21(5)—

Repeal

“Where an offence under subsection (1) or (3)”

Substitute

“If an offence under subsection (3)”.

(8) Section 21(6)(a)—

Repeal

“he”

Substitute

“the person”.

(9) Section 21(6)(b)—

Repeal

everything after “of any”

Substitute

“power conferred on the Director, officer or inspector by this Ordinance;”.

(10) Section 21(6)(c)—

Repeal

“he”

Substitute

“the person”.

(11) Section 21(6)(e)—

Repeal

“him”

Substitute

“the person”.

19. Sections 21A, 21B and 21C added

After section 21—

Add

“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.

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—

- (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.

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.”.

20. Section 23 amended (regulation)

- (1) Section 23(1)(c)—

Repeal

“persons holding the licences in respect thereof”

Substitute

“operators and responsible persons of residential care homes”.

- (2) Section 23(1)(g), Chinese text—

Repeal

“福利”

Substitute

“福祉”.

- (3) Section 23(1)(m)—

Repeal

everything after “design,”

Substitute

“construction, hygiene and sanitation of residential care homes;”.

- (4) Section 23(1)(ra)—

Repeal

“whether certificates of exemption or”

Substitute

“that”.

- (5) Section 23(3)—

Repeal

everything after “to” and before “control”

Substitute

“a person who operates, keeps, manages or otherwise has”.

- (6) Section 23(4), English text—

Repeal

“shall be”

Substitute

“is”.

- (7) Section 23(5), English text—

Repeal

“his”

Substitute

“the Director’s”.

- (8) Section 23(6)(a)(ii)—

Repeal

“certificate of exemption or the licence, as the case may be”

Substitute

“licence”.

21. Section 24 amended (no fee payable in respect of certificate of exemption or licence)

- (1) Section 24, heading—

Repeal

“certificate of exemption or”.

- (2) Section 24, English text—

Repeal

“shall be”

Substitute

“is”.

- (3) Section 24—

Repeal paragraph (a).

- (4) Section 24(b), after “licence;”—

Add

“or”.

- (5) Section 24—

Repeal paragraph (c).

22. Schedules 1 and 2 added

After section 24—

Add

“Schedule 1

[s. 8A]

Fit and Proper Requirement for Licence Applicant

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;
 - (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;
 - (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;
 - (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

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

Schedule 2

[s. 11E]

Fit and Proper Requirement for Responsible Person

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);
- (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.”.

23. “營辦” substituted for “經營”

- (1) The following provisions, Chinese text—
 - (a) section 8(2)(a), (3)(a) and (4)(c);
 - (b) section 9(3);
 - (c) section 10(1)(e)(i), (ii) and (iii);
 - (d) section 18(2)(b) and (e)(ii);
 - (e) section 19(1)(a);
 - (f) section 21(3) and (5);

- (g) section 22(1);
- (h) section 23(1)(a) and (d)—

Repeal

“經營” (wherever appearing)

Substitute

“營辦”.

- (2) The following provisions, Chinese text—
 - (a) Part 2, heading;
 - (b) section 22, heading—

Repeal

“經營” (wherever appearing)

Substitute

“營辦”.

Part 3

Amendments to Residential Care Homes (Elderly Persons) Regulation (Cap. 459 sub. leg. A)

24. Section 2 amended (interpretation)

(1) Section 2—

Repeal the definition of *health worker*

Substitute

“*health worker* (保健員) means a person who is responsible for providing health and care services to residents of a residential care home;”.

(2) Section 2, English text, definition of *scheduled infectious disease*—

Repeal

“(Cap. 599).”

Substitute

“(Cap. 599);”.

(3) Section 2, Chinese text, definition of 護理員—

Repeal the full stop

Substitute a semicolon.

(4) Section 2—

Repeal the definitions of *nurse* and *operator*.

(5) Section 2—

Add in alphabetical order

“*aged home* (中度照顧安老院) means a residential care home within the meaning of section 3(b);

- applicable fee*** (適用費用), in relation to a matter, means the fee specified in Schedule 3 payable for that matter;
- care and attention home*** (高度照顧安老院) means a residential care home within the meaning of section 3(a);
- nursing home*** (護養院) means a residential care home within the meaning of section 3(aa);
- pre-material-date home manager*** (關鍵日期前的主管) means a person who was employed as a home manager in a residential care home or a residential care home for PWDs immediately before the material date;
- register of health workers*** (保健員註冊紀錄冊) means the register kept under section 5(1);
- register of home managers*** (主管註冊紀錄冊) means the register kept under section 3X(1);
- registered health worker*** (註冊保健員) means a person whose name appears on the register of health workers;
- registered home manager*** (註冊主管) means a person whose name appears on the list of persons registered as registered home managers in the register of home managers;
- registered home manager (provisional)*** (註冊主管(臨時)) means a person whose name appears on the list of persons registered as registered home managers (provisional) in the register of home managers;
- Secretary*** (局長) means the Secretary for Labour and Welfare;

self-care hostel (低度照顧安老院) means a residential care home within the meaning of section 3(c).”

25. Section 3 amended (types of residential care homes)

Section 3—

Repeal

“sections 7(3)(c) and 8(4)(c) of the Ordinance”

Substitute

“section 8(4)(c) of the Ordinance and this Regulation”.

26. Part IIA added

After Part II—

Add

“Part IIA

Registration of Home Managers

Division 1—Registered Home Managers

3A. Application for registration as registered home manager

- (1) An application for registration as a registered home manager must—
 - (a) be made to the Director in the form and manner specified by the Director; and
 - (b) contain the information specified by the Director.
- (2) On the application, the Director may register the applicant as a registered home manager if—
 - (a) the Director is satisfied that the applicant—

- (i) meets the qualification requirement specified in section 3B;
 - (ii) is competent to perform the duties of a home manager; and
 - (iii) is fit and proper to be so registered; and
 - (b) the applicant has paid the applicable fee for the registration.
- (3) The Director may impose on the registration any condition that the Director considers appropriate, including any condition relating to continuous learning.

3B. Qualification requirement for registration as registered home manager

- (1) For section 3A(2)(a)(i), the qualification requirement is that—
- (a) the person—
 - (i) is one specified in subsection (2)(a), (b), (c) or (d); and
 - (ii) has completed a training course specified by the Director; or
 - (b) the person is a registered home manager as defined by section 2 of Cap. 613A.
- (2) The following persons are specified for subsection (1)(a)(i)—
- (a) a person who—
 - (i) holds—
 - (A) a professional qualification relating to healthcare or social work specified by the Director; or

- (B) a bachelor or higher degree, or an academic qualification regarded by the Director as equivalent; and
- (ii) has, within 3 years before making the application, worked in one or more residential care homes or residential care homes for PWDs for a total of at least 1 year in a position involving or assisting in the management of the residential care homes or residential care homes for PWDs;
- (b) a person who—
 - (i) is a registered health worker within the meaning of this Regulation, or a registered health worker as defined by section 2 of Cap. 613A; and
 - (ii) has worked in one or more residential care homes or residential care homes for PWDs as a health worker for a total of at least 5 years;
- (c) a pre-material-date home manager who applies for registration as a registered home manager under section 3A during the 6-month period beginning on the material date;
- (d) a pre-material-date home manager who is—
 - (i) a registered home manager (provisional) within the meaning of this Regulation; or
 - (ii) a registered home manager (provisional) as defined by section 2 of Cap. 613A.

3C. Fit and proper requirement for registration as registered home manager

For section 3A(2)(a)(iii), in considering whether a person is fit and proper to be registered as a registered home manager, the Director must have regard to all relevant matters, including—

- (a) whether the person has been—
 - (i) convicted of an offence involving fraud or dishonesty, or of a sexual nature, 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 the Ordinance, this Regulation, Cap. 613 or Cap. 613A; and
- (b) if any professional or academic qualification of the person (whether or not relating to healthcare or social work) has been revoked—the reason for the revocation.

3D. Notice of decision on application for registration

- (1) On determining an application under section 3A, the Director must give a written notice of the decision to the applicant.
- (2) If the application is approved, the notice must state the validity period of the registration.
- (3) If the application is refused, the notice must state—

- (a) the reason for the refusal; and
- (b) that the applicant may appeal under section 3K.

3E. Renewal of registration as registered home manager

- (1) A registered home manager may apply for the renewal of the registration.
- (2) The application must—
 - (a) be made to the Director at least 3 months before, but not earlier than 6 months before, the expiry of the registration;
 - (b) be made in the form and manner specified by the Director; and
 - (c) contain the information specified by the Director.
- (3) On the application, the Director may renew the registration if—
 - (a) the Director is satisfied that the registered home manager—
 - (i) still meets the requirements for registration under section 3A(2)(a)(ii) and (iii); and
 - (ii) complies with all conditions imposed on the registration; and
 - (b) the manager has paid the applicable fee for the renewal.
- (4) The Director may impose on the renewed registration any condition that the Director considers appropriate, including any condition relating to continuous learning.

3F. Notice of decision on application for renewal of registration

- (1) On determining an application under section 3E, the Director must give a written notice of the decision to the applicant.
- (2) If the application is approved, the notice must state the validity period of the renewed registration.
- (3) If the application is refused, the notice must state—
 - (a) the reason for the refusal; and
 - (b) that the applicant may appeal under section 3K.

3G. Registration remains in effect pending determination of renewal application

- (1) This section applies if—
 - (a) a registered home manager applies for the renewal of the registration under section 3E; and
 - (b) the registration would, but for this section, have expired before the application is determined.
- (2) The registration remains in effect until—
 - (a) the Director determines the application; or
 - (b) the registered home manager withdraws the application.

3H. Validity period of registration as registered home manager

The validity period of a registration or renewed registration as a registered home manager is to be decided by the Director and must not exceed 5 years.

3I. Cancellation of registration as registered home manager

- (1) The Director may cancel a person's registration as a registered home manager if satisfied that—
 - (a) the registration was obtained by fraudulent means;
 - (b) the person no longer meets the requirement for registration under section 3A(2)(a)(ii) or (iii); or
 - (c) the person contravenes—
 - (i) a condition imposed on the registration under section 3A(3) or 3E(4); or
 - (ii) section 3W.
- (2) The Director must cancel a person's registration as a registered home manager—
 - (a) if the person makes a written request to the Director for cancelling the registration; or
 - (b) if—
 - (i) the person was also registered as a registered home manager or registered home manager (provisional) under Cap. 613A; and
 - (ii) that registration under Cap. 613A is cancelled under section 3I(1)(a) or (b) or 3T(1)(a) or (b) of Cap. 613A.
- (3) The cancellation takes effect—
 - (a) for a cancellation under subsection (1)—subject to section 3K(3), on the expiry of 21 days after the day on which the Director gives the notice under section 3J; or

- (b) for a cancellation under subsection (2)—on the expiry of 21 days after the day on which the Director gives the notice under section 3J.

3J. Notice of cancellation of registration

- (1) If the Director decides to cancel a person's registration under section 3I, the Director must give a written notice of the decision to—
 - (a) the person; and
 - (b) if the person is employed in a residential care home when the decision is made—the operator of the residential care home.
- (2) The notice must state—
 - (a) the date on which the cancellation takes effect under section 3I(3);
 - (b) the reason for cancelling the registration; and
 - (c) if the registration is cancelled under section 3I(1)—that the person may appeal under section 3K.

3K. Appeals to Secretary

- (1) If the Director—
 - (a) decides to refuse to register a person under section 3A;
 - (b) decides to refuse to renew a person's registration under section 3E; or
 - (c) decides to cancel a person's registration under section 3I(1),the person may, by written notice, appeal to the Secretary against the decision.

- (2) The notice must—
 - (a) state the grounds of appeal; and
 - (b) be delivered to the Director within 21 days after the day on which the Director gives the notice of the decision.
- (3) If an appeal is made against a decision described in subsection (1)(c), the decision does not have effect pending the determination of the appeal by the Secretary.
- (4) When considering an appeal against a decision of the Director, the Secretary—
 - (a) must give the appellant and the Director an opportunity of being heard; and
 - (b) may confirm or reverse the decision.
- (5) On the determination of the appeal by the Secretary, the Director must give a written notice of the determination to—
 - (a) the appellant; and
 - (b) if the appellant is employed in a residential care home when the appeal is determined—the operator of the residential care home.

3L. Registration remains in effect pending determination of appeal

- (1) This section applies if—
 - (a) a person appeals against a decision described in section 3K(1)(b) or (c); and
 - (b) the person's registration as a registered home manager would, but for this section, have expired before the appeal is determined.

- (2) The registration remains in effect until—
 - (a) the Secretary determines the appeal; or
 - (b) the person withdraws the appeal.

Division 2—Registered Home Managers (Provisional)

3M. Application for registration as registered home manager (provisional)

- (1) An application for registration as a registered home manager (provisional) must—
 - (a) be made to the Director in the form and manner specified by the Director; and
 - (b) contain the information specified by the Director.
- (2) On the application, the Director may register the applicant as a registered home manager (provisional) if—
 - (a) the Director is satisfied that the applicant—
 - (i) meets the qualification requirement specified in section 3N;
 - (ii) is competent to perform the duties of a home manager;
 - (iii) is fit and proper to be so registered; and
 - (iv) if the applicant is not a pre-material-date home manager—on being so registered, will be employed as a home manager in a residential care home under section 11(1)(a) or (1A)(a); and
 - (b) the applicant has paid the applicable fee for the registration.

- (3) The Director may impose on the registration any condition that the Director considers appropriate, including any condition relating to continuous learning.

3N. Qualification requirement for registration as registered home manager (provisional)

For section 3M(2)(a)(i), the qualification requirement is that the person—

- (a) holds a professional qualification relating to healthcare or social work specified by the Director;
- (b) holds a bachelor or higher degree, or an academic qualification regarded by the Director as equivalent; or
- (c) is a pre-material-date home manager who applies for registration as a registered home manager (provisional) under section 3M during the 6-month period beginning on the material date.

3O. Fit and proper requirement for registration as registered home manager (provisional)

For section 3M(2)(a)(iii), in considering whether a person is fit and proper to be registered as a registered home manager (provisional), the Director must have regard to all relevant matters, including the matters mentioned in section 3C(a) and (b).

3P. Notice of decision on application for registration

- (1) On determining an application under section 3M, the Director must give a written notice of the decision to the applicant.
- (2) If the application is approved, the notice must state the validity period of the registration.
- (3) If the application is refused, the notice must state—
 - (a) the reason for the refusal; and
 - (b) that the applicant may appeal under section 3V.

3Q. Validity period of registration as registered home manager (provisional)

The validity period of a registration as a registered home manager (provisional) is to be decided by the Director and must not exceed 2 years.

3R. Extension of validity period

- (1) A person who is registered as a registered home manager (provisional) because of meeting the qualification requirement specified in section 3N(c) may apply for the extension of the validity period of the registration once.
- (2) The application must—
 - (a) be made to the Director before the expiry of the registration;
 - (b) be made in the form and manner specified by the Director; and
 - (c) contain the information specified by the Director.

- (3) The Director may extend the validity period of the registration for a period of not more than 2 years only if satisfied that there are exceptional circumstances that justify the extension.

3S. Registration remains in effect pending determination of certain application

- (1) This section applies if—
 - (a) a registered home manager (provisional) applies—
 - (i) for registration under section 3A; or
 - (ii) for the extension of the validity period of the registration under section 3R; and
 - (b) the registration would, but for this section, have expired before the application is determined.
- (2) The registration remains in effect until—
 - (a) the Director determines the application; or
 - (b) the registered home manager (provisional) withdraws the application.

3T. Cancellation of registration as registered home manager (provisional)

- (1) The Director may cancel a person's registration as a registered home manager (provisional) if satisfied that—
 - (a) the registration was obtained by fraudulent means;
 - (b) the person no longer meets the requirement for registration under section 3M(2)(a)(ii) or (iii); or
 - (c) the person contravenes—

- (i) a condition imposed on the registration under section 3M(3); or
 - (ii) section 3W.
- (2) The Director must cancel a person's registration as a registered home manager (provisional)—
 - (a) if the person is registered as a registered home manager under section 3A;
 - (b) if the person makes a written request to the Director for cancelling the registration; or
 - (c) if—
 - (i) the person was also registered as a registered home manager or registered home manager (provisional) under Cap. 613A; and
 - (ii) that registration under Cap. 613A is cancelled under section 3I(1)(a) or (b) or 3T(1)(a) or (b) of Cap. 613A.
- (3) The cancellation takes effect—
 - (a) for a cancellation under subsection (1)—subject to section 3V(3), on the expiry of 21 days after the day on which the Director gives the notice under section 3U;
 - (b) for a cancellation under subsection (2)(a)—on the day on which the registration under section 3A takes effect; or
 - (c) for a cancellation under subsection (2)(b) or (c)—on the expiry of 21 days after the day on which the Director gives the notice under section 3U.

3U. Notice of cancellation of registration

- (1) If the Director decides to cancel a person's registration under section 3T, the Director must give a written notice of the decision to—
 - (a) the person; and
 - (b) if the person is employed in a residential care home when the decision is made—the operator of the residential care home.
- (2) The notice must state—
 - (a) the date on which the cancellation takes effect under section 3T(3);
 - (b) the reason for cancelling the registration; and
 - (c) if the registration is cancelled under section 3T(1)—that the person may appeal under section 3V.

3V. Appeals to Secretary

- (1) If the Director—
 - (a) decides to refuse to register a person under section 3M; or
 - (b) decides to cancel a person's registration under section 3T(1),the person may, by written notice, appeal to the Secretary against the decision.
- (2) The notice must—
 - (a) state the grounds of appeal; and
 - (b) be delivered to the Director within 21 days after the day on which the Director gives the notice of the decision.

- (3) If an appeal is made against a decision described in subsection (1)(b), the decision does not have effect pending the determination of the appeal by the Secretary.
- (4) When considering an appeal against a decision of the Director, the Secretary—
 - (a) must give the appellant and the Director an opportunity of being heard; and
 - (b) may confirm or reverse the decision.
- (5) On the determination of the appeal by the Secretary, the Director must give a written notice of the determination to—
 - (a) the appellant; and
 - (b) if the appellant is employed in a residential care home when the appeal is determined—the operator of the residential care home.

Division 3—Reporting Requirements

3W. Registered home manager or registered home manager (provisional) to report certain events

- (1) A registered home manager or a registered home manager (provisional) must report to the Director if—
 - (a) a charge is laid against the manager for an offence in any place;
 - (b) the manager is convicted of an offence in any place;
 - (c) any professional or academic qualification of the manager (whether or not relating to healthcare or social work) is revoked; or

- (d) there is a change in the name or correspondence address of the manager.
- (2) The report must—
 - (a) be given in writing—
 - (i) for an event described in subsection (1)(a), (b) or (c)—as soon as reasonably practicable after the event occurs; or
 - (ii) for a change described in subsection (1)(d)—within 3 months after the change occurs; and
 - (b) contain the information specified by the Director.

Division 4—Register of Home Managers

3X. Register of home managers

- (1) The Director must keep a register containing—
 - (a) a list of persons registered as registered home managers under Division 1; and
 - (b) a list of persons registered as registered home managers (provisional) under Division 2.
- (2) The purpose of the register is to enable the public to ascertain—
 - (a) whether a person is a registered home manager or registered home manager (provisional); and
 - (b) the particulars of the registration.
- (3) Each list in the register—
 - (a) must contain the name and correspondence address of each person on the list; and

- (b) may contain other particulars that the Director considers appropriate.
- (4) The Director may make any amendment to the register that the Director considers necessary for securing its accuracy or keeping it up-to-date.
- (5) The Director must remove from the register the name of a person if—
 - (a) it has come to the notice of the Director that the person has died; or
 - (b) the person’s registration ceases to have effect on expiry or cancellation.

3Y. Inspection of register of home managers

The Director must make the register of home managers available for public inspection—

- (a) free of charge;
- (b) at offices of the Government that the Director directs; and
- (c) during the hours when those offices are open to the public.”.

27. Section 4 amended (qualifications for registration as a health worker)

- (1) Section 4, heading—

Repeal

“a”

Substitute

“registered”.

- (2) Section 4—

Repeal

everything after paragraph (a) and before “health worker for”

Substitute

“(b) by reason of the person’s education, training, professional experience and skill in health work, satisfies the Director that the person is a suitable person to be registered as a registered health worker,

is qualified to be registered as a registered”.

28. Section 5 amended (register of health workers)

(1) Section 5—

Repeal subsection (1)

Substitute

“(1) The Director must keep a register containing a list of persons registered as registered health workers under this Part.

(1A) The purpose of the register is to enable the public to ascertain—

(a) whether a person is a registered health worker; and

(b) the particulars of the registration.

(1B) The register—

(a) must contain the name and correspondence address of each person in the register; and

(b) may contain other particulars that the Director considers appropriate.”.

(2) Section 5(2), English text—

Repeal

“shall”

Substitute

“must”.

(3) Section 5—

Repeal subsections (3) and (4)

Substitute

- “(3) The Director may make any amendment to the register that the Director considers necessary for securing its accuracy or keeping it up-to-date.
- (4) The Director must remove from the register the name of a person if—
- (a) it has come to the notice of the Director that the person has died; or
 - (b) the person’s registration ceases to have effect on expiry or cancellation.”.

29. Section 6 substituted

Section 6—

Repeal the section

Substitute

“6. Application for registration as registered health worker

- (1) An application for registration as a registered health worker must—
- (a) be made to the Director in the form and manner specified by the Director; and
 - (b) contain the information specified by the Director.

- (2) On the application, the Director may register the applicant as a registered health worker if—
 - (a) the Director is satisfied that the applicant—
 - (i) is qualified under section 4 to be so registered;
 - (ii) is competent to perform the duties of a health worker; and
 - (iii) is fit and proper to be so registered; and
 - (b) the applicant has paid the applicable fee for the registration.
- (3) The Director may impose on the registration any condition that the Director considers appropriate, including any condition relating to continuous learning.”.

30. Section 7 substituted

Section 7—

Repeal the section

Substitute

“7. Notice of decision on application for registration

- (1) On determining an application under section 6, the Director must give a written notice of the decision to the applicant.
- (2) If the application is approved, the notice must state the validity period of the registration.
- (3) If the application is refused, the notice must state—
 - (a) the reason for the refusal; and
 - (b) that the applicant may appeal under section 10.”.

31. Sections 7A to 7D added

After section 7—

Add

“7A. Renewal of registration as registered health worker

- (1) A registered health worker may apply for the renewal of the registration.
- (2) The application must—
 - (a) be made to the Director at least 3 months before, but not earlier than 6 months before, the expiry of the registration;
 - (b) be made in the form and manner specified by the Director; and
 - (c) contain the information specified by the Director.
- (3) On the application, the Director may renew the registration if—
 - (a) the Director is satisfied that the registered health worker—
 - (i) still meets the requirements for registration under section 6(2)(a); and
 - (ii) complies with all conditions imposed on the registration; and
 - (b) the health worker has paid the applicable fee for the renewal.
- (4) The Director may impose on the renewed registration any condition that the Director considers appropriate, including any condition relating to continuous learning.

7B. Notice of decision on application for renewal of registration

- (1) On determining an application under section 7A, the Director must give a written notice of the decision to the applicant.
- (2) If the application is approved, the notice must state the validity period of the renewed registration.
- (3) If the application is refused, the notice must state—
 - (a) the reason for the refusal; and
 - (b) that the applicant may appeal under section 10.

7C. Registration remains in effect pending determination of renewal application

- (1) This section applies if—
 - (a) a registered health worker applies for the renewal of the registration under section 7A; and
 - (b) the registration would, but for this section, have expired before the application is determined.
- (2) The registration remains in effect until—
 - (a) the Director determines the application; or
 - (b) the registered health worker withdraws the application.

7D. Validity period of registration as registered health worker

The validity period of a registration or renewed registration as a registered health worker is to be decided by the Director and must not exceed 5 years.”.

32. Section 8 substituted

Section 8—

Repeal the section

Substitute

“8. Cancellation of registration as registered health worker

- (1) The Director may cancel a person’s registration as a registered health worker if satisfied that—
 - (a) the registration was obtained by fraudulent means;
 - (b) the person no longer meets the requirement for registration under section 6(2)(a)(i), (ii) or (iii); or
 - (c) the person contravenes—
 - (i) a condition imposed on the registration under section 6(3) or 7A(4); or
 - (ii) section 10B.
- (2) The Director must cancel a person’s registration as a registered health worker—
 - (a) if the person makes a written request to the Director for cancelling the registration; or
 - (b) if—
 - (i) the person was also registered as a registered health worker under Cap. 613A; and
 - (ii) that registration under Cap. 613A is cancelled under section 8(1)(a) or (b) of Cap. 613A.
- (3) The cancellation takes effect—

- (a) for a cancellation under subsection (1)—subject to section 10(3), on the expiry of 21 days after the day on which the Director gives the notice under section 9; or
- (b) for a cancellation under subsection (2)—on the expiry of 21 days after the day on which the Director gives the notice under section 9.”.

33. Section 9 amended (notice of cancellation of registration)

Section 9—

Repeal subsections (1) and (2)

Substitute

- “(1) If the Director decides to cancel a person’s registration under section 8, the Director must give a written notice of the decision to—
- (a) the person; and
 - (b) if the person is employed in a residential care home when the decision is made—the operator of the residential care home.
- (2) The notice must state—
- (a) the date on which the cancellation takes effect under section 8(3);
 - (b) the reason for cancelling the registration; and
 - (c) if the registration is cancelled under section 8(1)—that the person may appeal under section 10.”.

34. Section 10 substituted

Section 10—

Repeal the section

Substitute**“10. Appeals to Secretary**

- (1) If the Director—
 - (a) decides to refuse to register a person under section 6;
 - (b) decides to refuse to renew a person’s registration under section 7A; or
 - (c) decides to cancel a person’s registration under section 8(1),the person may, by written notice, appeal to the Secretary against the decision.
- (2) The notice must—
 - (a) state the grounds of appeal; and
 - (b) be delivered to the Director within 21 days after the day on which the Director gives the notice of the decision.
- (3) If an appeal is made against a decision described in subsection (1)(c), the decision does not have effect pending the determination of the appeal by the Secretary.
- (4) When considering an appeal against a decision of the Director, the Secretary—
 - (a) must give the appellant and the Director an opportunity of being heard; and
 - (b) may confirm or reverse the decision.
- (5) On the determination of the appeal by the Secretary, the Director must give a written notice of the determination to—
 - (a) the appellant; and

- (b) if the appellant is employed in a residential care home when the appeal is determined—the operator of the residential care home.”.

35. Sections 10A to 10D added

Part III, after section 10—

Add

“10A. Registration remains in effect pending determination of appeal

- (1) This section applies if—
 - (a) a person appeals against a decision described in section 10(1)(b) or (c); and
 - (b) the person’s registration as a registered health worker would, but for this section, have expired before the appeal is determined.
- (2) The registration remains in effect until—
 - (a) the Secretary determines the appeal; or
 - (b) the person withdraws the appeal.

10B. Registered health worker to report certain events

- (1) A registered health worker must report to the Director if—
 - (a) a charge is laid against the health worker for an offence in any place;
 - (b) the health worker is convicted of an offence in any place; or
 - (c) there is a change in the name or correspondence address of the health worker.
- (2) The report must—

- (a) be given in writing—
 - (i) for an event described in subsection (1)(a) or (b)—as soon as reasonably practicable after the event occurs; or
 - (ii) for a change described in subsection (1)(c)—within 3 months after the change occurs; and
- (b) contain the information specified by the Director.

10C. Transitional provisions relating to registration before material date

- (1) Unless renewed under section 7A, a registration under section 6 that has effect immediately before the material date expires at midnight on the last day of the 5-year period beginning on the material date (*expiry date*).
- (2) Despite section 7A(2)(a), an application for the renewal of the registration—
 - (a) may be made at any time on or after the material date; but
 - (b) must be made at least 6 months before the expiry date.

10D. Application for registration as registered health worker pending on material date

If an application for registration under section 6—

- (a) was made before the material date; but
- (b) has not been determined by the Director before that date,

this Part, as amended by the Residential Care Homes Legislation (Miscellaneous Amendments) Ordinance 2022 (of 2022), applies in relation to the application.”.

36. Section 11 amended (employment of staff by operator)

- (1) Section 11, heading—

Repeal

“**Employment of staff by operator**”

Substitute

“**Staffing requirements**”.

- (2) Section 11—

Repeal subsection (1)

Substitute

“(1) The operator of a residential care home (other than a nursing home) must—

- (a) employ a home manager for the residential care home; and
- (b) ensure that Schedule 1 is complied with in relation to the residential care home.”.

- (3) Section 11(2), English text—

Repeal

“shall”

Substitute

“must”.

- (4) Section 11(2)(a), before “for”—

Add

“, subject to subsection (1A)(a),”.

- (5) Section 11(2)—

Repeal paragraph (a)

Substitute

- “(a) a home manager—
- (i) unless that person is a registered home manager or a registered home manager (provisional); and
 - (ii) subject to subsection (1A)(a), for any purpose other than employment as a home manager;”.

- (6) Section 11(2)(d)(i)—

Repeal

“registered under section 6”

Substitute

“a registered health worker”.

- (7) Section 11(2)(e)(i)—

Repeal

everything after “enrolled nurse”

Substitute

“; and”.

- (8) Section 11(2)(e)(ii), before “for”—

Add

“subject to subsection (1A)(a),”.

- (9) Section 11(3)—

Repeal

“An operator shall”

Substitute

“The operator of a residential care home (other than a nursing home) must”.

- (10) Section 11(4), English text—

Repeal

“An”

Substitute

“The”.

37. Section 14 amended (furnishing of details of fees by operator)

Section 14(1) and (3), Chinese text—

Repeal

“繳交”

Substitute

“繳付”.

38. Section 14A added

Part IV, after section 14—

Add

“14A. Operator to ensure advertisement contains certain information

(1) The operator of a residential care home must ensure that every advertisement published by or on behalf of the operator for promoting the residential care home contains information to the effect that a licence is in force in respect of the residential care home.

(2) In subsection (1)—

advertisement (廣告) includes any advertisement in the form of any words (written or spoken), picture, drawing, visual image, figure or article—

(a) appearing in any publication; or

(b) brought to the notice of the general public or any section of the general public in any other way;

publish (發布) includes issue, circulate, display, distribute and broadcast.”.

39. Section 14B added

Part V, before section 15—

Add

“14B. Application of Part V

This Part applies to a person who is employed by the operator of a residential care home as a home manager of the residential care home in compliance with section 11(1)(a) or (1A)(a).”.

40. Section 16 amended (maintenance of records by home manager)

(1) Section 16, English text—

Repeal

“shall”

Substitute

“must”.

(2) Section 16(g), English text—

Repeal

“mechanical”.

(3) Section 16(g), English text—

Repeal

“injuring himself or”

Substitute

“self-injury or injuring”.

(4) Section 16(g), Chinese text—

Repeal

“物品”

Substitute

“措施”.

(5) Section 16(i), Chinese text—

Repeal

“經營”

Substitute

“營辦”.

41. Section 22 amended (area of floor space per resident)

(1) Section 22—

Repeal subsection (1)

Substitute

“(1) The minimum area of floor space required for each resident of a residential care home is—

(a) for a nursing home or a care and attention home—9.5 m²; or

(b) for an aged home or a self-care hostel—8 m².

(1A) Despite subsection (1)—

(a) for a care and attention home to which this subsection applies, the minimum area of floor space required for each resident is—

(i) during the 4-year period beginning on the material date—6.5 m²; and

- (ii) during the 4-year period immediately after the period mentioned in subparagraph (i)—8 m²; or
 - (b) for an aged home or a self-care hostel to which this subsection applies, during the 8-year period beginning on the material date, the minimum area of floor space required for each resident is 6.5 m².
- (1B) Subsection (1A) applies to a residential care home if—
 - (a) a licence was in force in respect of the residential care home immediately before the material date; or
 - (b) a licence is issued in respect of the residential care home on or after the material date on an application made before that date.”.

(2) Section 22(2), English text—

Repeal

“shall”

Substitute

“is to”.

42. Part VII heading amended (precautions against fire and other risks)

Part VII, heading—

Repeal

“Precautions against Fire and Other Risks”

Substitute

“Residents’ Health, Safety and Well-being”.

43. Section 28 amended (precautions for health and safety)

(1) Section 28—

Repeal

everything after “construction” and before “be such”

Substitute

“(including the fire resistance of the elements of construction) and the properties of the materials must”.

(2) Section 28, English text—

Repeal

“shall, to the satisfaction of the Director, be”

Substitute

“are, to the satisfaction of the Director,”.

44. Section 33 substituted

Section 33—

Repeal the section

Substitute

“33. Storage and administration of medicine

(1) All medicine kept in a residential care home must, to the satisfaction of the Director, be kept in a secure and locked place.

(2) A medicine may only be administered to a resident in a residential care home in accordance with the prescription given for the resident by a registered medical practitioner, a registered Chinese medicine practitioner or a listed Chinese medicine practitioner.

(3) In this section—

listed Chinese medicine practitioner (表列中醫) has the meaning given by section 2(1) of the Chinese Medicine Ordinance (Cap. 549);

registered Chinese medicine practitioner (註冊中醫) has the meaning given by section 2(1) of the Chinese Medicine Ordinance (Cap. 549).”.

45. Sections 33A and 33B added

After section 33—

Add

“33A. Use of restraints

- (1) A restraint must not be used on a resident in a residential care home unless—
 - (a) the safety, health or well-being of the resident or other persons is endangered;
 - (b) no other less restrictive means to avoid the danger are available in the circumstances; and
 - (c) the requirements relating to obtaining consent to the use of restraint as set out in the Codes of Practice issued under section 22 of the Ordinance are complied with.
- (2) A restraint may only be used—
 - (a) in the safe and proper manner as set out in the Codes of Practice; and
 - (b) for no longer than is necessary.
- (3) The use of a restraint must be closely monitored and reviewed to ensure that subsections (1) and (2) are complied with in relation to the continued use of the restraint.

33B. Protection of residents’ dignity and privacy when providing care etc.

When a personal care service is provided to, or a nursing care procedure is performed on, a resident in a residential care home, adequate facilities or measures must be provided or taken, to the satisfaction of the Director, to avoid improper exposure of body parts and protect the dignity and privacy of the resident.”.

46. Section 34 amended (examination of residents)

(1) Section 34, English text, heading—

Repeal

“**Examination**”

Substitute

“**Medical examination**”.

(2) Section 34(1), (2) and (3), English text—

Repeal

“shall” (wherever appearing)

Substitute

“must”.

47. Section 36 amended (offences by operators and home managers)

(1) Section 36(1)—

Repeal

everything after “with”

Substitute

“section 11, 12, 13(2), 14(2) or (3) or 14A(1) commits an offence and is liable to a fine at level 5.”.

(2) Section 36(2)—

Repeal

everything after “with”

Substitute

“section 15, 16, 17(2) or 18 commits an offence and is liable to a fine at level 5.”.

48. Section 37 amended (offence of obstruction)

Section 37—

Repeal

everything after “who”

Substitute

“contravenes section 31(2) commits an offence and is liable to a fine at level 5.”.

49. Section 38 substituted

Section 38—

Repeal the section

Substitute

“38. Fees

A fee specified in column 3 of Schedule 3 is payable to the Director for the matter described, opposite the fee, in column 2 of that Schedule.”.

50. Schedule 1 substituted

Schedule 1—

Repeal the Schedule

Substitute

“Schedule 1

[s. 11]

Minimum Staffing Requirements

Part 1

Preliminary

1. Interpretation of Schedule 1

In this Schedule—

on call (候命) means standing by and being ready to be on duty as soon as practicable after being called on;

on-site (在場), in relation to a residential care home, means being present in the residential care home;

specified period (指明期間), in relation to a day, means the period from 6 a.m. to 10 p.m. on that day;

staff member (員工) means a home manager, a nurse, a health worker, a care worker or an ancillary worker.

2. Number of residents to be rounded up to next multiple

If, in relation to a residential care home (other than a nursing home)—

- (a) this Schedule requires at least 1 staff member for every specified number of residents (*specified number*); and
- (b) the number of residents of the residential care home is not a multiple of the specified number,

then, for the purpose of determining the number of staff members required, the number of residents of the residential care home is to be rounded up to the next multiple of the specified number.

Part 2

Minimum Staffing Requirements

3. Care and attention home

For a care and attention home, during or at the time specified in column 2 of Table 1 on every day, there must be at least the number of staff members that is specified in column 3 of Table 1 opposite the time.

Table 1

Column 1 Item	Column 2 Time	Column 3 Minimum staffing requirement
------------------	------------------	------------------------------------------

Nurse and Health Worker

1.	13 hours within the specified period	1 health worker (on-site and on duty) for every 30 residents, and for this purpose, 1 nurse (on-site and on duty) is considered equivalent to 2 health workers (on-site and on duty)
----	--------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Column 1 Item	Column 2 Time	Column 3 Minimum staffing requirement
------------------	------------------	------------------------------------------

Care Worker

- | | | |
|----|------------------------------------------------------|------------------------------------------------|
| 2. | 10 hours within the specified period | 1 care worker (on duty) for every 20 residents |
| 3. | Any time other than the 10 hours mentioned in item 2 | 1 care worker (on duty) for every 40 residents |

Ancillary Worker

- | | | |
|----|--------------------------------------|-----------------------------------------------------|
| 4. | 11 hours within the specified period | 1 ancillary worker (on duty) for every 40 residents |
|----|--------------------------------------|-----------------------------------------------------|

Any Staff Member

- | | | |
|----|------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|
| 5. | From 6 p.m. on a day to 7 a.m. on the next day | 2 staff members (on duty) (who may be persons engaged for complying with a requirement specified in any other item of this Table) |
|----|------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|

Column 1 Item	Column 2 Time	Column 3 Minimum staffing requirement
6.	Any time when a resident is in the care and attention home	1 staff member (on-site and on duty) (who may be a person engaged for complying with a requirement specified in any other item of this Table)

4. Aged home

For an aged home, during or at the time specified in column 2 of Table 2 on every day, there must be at least the number of staff members that is specified in column 3 of Table 2 opposite the time.

Table 2

Column 1 Item	Column 2 Time	Column 3 Minimum staffing requirement
------------------	------------------	------------------------------------------

Nurse and Health Worker

1.	6 hours within the specified period	(a) 1 nurse (on-site and on duty); or (b) 1 health worker (on-site and on duty) for every 60 residents
----	-------------------------------------	-----------------------------------------------------------------------------------------------------------

Column 1 Item	Column 2 Time	Column 3 Minimum staffing requirement
------------------	------------------	------------------------------------------

Care Worker and Ancillary Worker

2.	11 hours within the specified period	1 care worker (on duty) or ancillary worker (on duty) for every 30 residents
----	--------------------------------------	------------------------------------------------------------------------------

Any Staff Member

3.	From 6 p.m. on a day to 7 a.m. on the next day	2 staff members (on duty) (who may be persons engaged for complying with a requirement specified in any other item of this Table)
4.	Any time when a resident is in the aged home	1 staff member (on-site and on duty) (who may be a person engaged for complying with a requirement specified in any other item of this Table)

5. Self-care hostel

For a self-care hostel, during or at the time specified in column 2 of Table 3 on every day, there must be at least the number of staff members that is specified in column 3 of Table 3 opposite the time.

Table 3

Column 1 Item	Column 2 Time	Column 3 Minimum staffing requirement
------------------	------------------	------------------------------------------

Care Worker and Ancillary Worker

- | | | |
|----|--------------------------------------|------------------------------------------------------------------------------|
| 1. | 11 hours within the specified period | 1 care worker (on duty) or ancillary worker (on duty) for every 60 residents |
|----|--------------------------------------|------------------------------------------------------------------------------|

Any Staff Member

- | | | |
|----|-------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2. | Any time between 7 a.m. and 6 p.m. when a resident is in the self-care hostel | 1 staff member (on-site and on duty) (who may be a person engaged for complying with the requirement specified in item 1) |
| 3. | From 6 p.m. on a day to 7 a.m. on the next day | Both of the following staff members (who may be persons engaged for complying with the requirement specified in item 1)— <ul style="list-style-type: none"> (a) 1 staff member on-site (whether or not on duty); (b) 1 staff member on call (whether or not on-site) |

- 6. Certain staffing requirements must be complied with during specific hours approved by Director**
- (1) If, in relation to a residential care home (other than a nursing home), this Schedule requires at least a certain number of staff members during a certain number of hours within the specified period on every day (*requirement*), the requirement must be complied with during a specific period of, or specific periods totalling, that number of hours (*specific hours*) on every day as approved by the Director under this section in relation to the residential care home.
 - (2) For the requirement, the operator of the residential care home—
 - (a) must apply to the Director for approval of the specific hours proposed by the operator; and
 - (b) may propose in the application different specific hours for different days.
 - (3) The application must—
 - (a) be made in the form and manner specified by the Director; and
 - (b) contain the information specified by the Director.
 - (4) The Director may approve the specific hours proposed by the operator if satisfied that the proposal is appropriate having regard to all relevant circumstances, including—
 - (a) the schedule of activities of the residents of the residential care home; and
 - (b) the rest hours of the residents of the residential care home.”.

51. Schedule 1 amended (minimum staffing requirements)

(1) Schedule 1, section 3, Table 1—

Repeal item 1

Substitute

- “1. 8 hours within the specified period
- (a) if the care and attention home has not more than 30 residents—
 - (i) 1 nurse (on-site and on duty); or
 - (ii) 1 health worker (on-site and on duty);
 - (b) if the care and attention home has more than 30, but not more than 60, residents—
 - (i) 1 nurse (on-site and on duty); or
 - (ii) 2 health workers (on-site and on duty); or

- (c) if the care and attention home has more than 60 residents—
 - (i) for the first 60 residents—1 nurse (on-site and on duty); and
 - (ii) for every 30 residents after the first 60 residents—1 health worker (on-site and on duty), and for this purpose, 1 nurse (on-site and on duty) is considered equivalent to 2 health workers (on-site and on duty)

1A. 5 hours (other than the 8 hours mentioned in item 1) within the specified period

1 health worker (on-site and on duty) for every 30 residents, and for this purpose, 1 nurse (on-site and on duty) is considered equivalent to 2 health workers (on-site and on duty)”.

(2) Schedule 1, section 3, Table 1—

Repeal item 1

Substitute

- “1. 8 hours within the specified period
- (a) if the care and attention home has not more than 90 residents—
 - (i) 1 nurse and 1 health worker (both of them are on-site and on duty); or
 - (ii) 2 nurses (on-site and on duty); or
 - (b) if the care and attention home has more than 90 residents—
 - (i) for the first 60 residents—1 nurse (on-site and on duty); and
 - (ii) for every 30 residents after the first 60 residents—1 health worker (on-site and on duty), and for this purpose, 1 nurse (on-site and on duty) is considered equivalent to 2 health workers (on-site and on duty)”.

52. Schedule 2 repealed (minimum area of floor space for each resident)

Schedule 2—

Repeal the Schedule.

53. Schedule 3 added

At the end of the Regulation—

Add**“Schedule 3**

[ss. 2 & 38]

Fees

Column 1 Item	Column 2 Matter	Column 3 Fee
1.	Registration as a registered home manager under section 3A	\$345
2.	Renewal of a registration as a registered home manager under section 3E	\$235
3.	Registration as a registered home manager (provisional) under section 3M	\$345
4.	Registration as a registered health worker under section 6	\$245
5.	Renewal of a registration as a registered health worker under section 7A	\$190”.

54. “營辦人” substituted for “經營者”

(1) The following provisions, Chinese text—

- (a) section 2, definition of 助理員;
- (b) section 2, definition of 護理員;

- (c) section 11(1A), (2) and (4);
- (d) section 12;
- (e) section 13(1) and (2);
- (f) section 14(1), (2) and (3);
- (g) section 15(1) and (2);
- (h) section 20(2);
- (i) section 34(1), (2) and (3);
- (j) section 35;
- (k) section 36(1)—

Repeal

“經營者” (wherever appearing)

Substitute

“營辦人”.

- (2) The following provisions, Chinese text—
 - (a) Part IV, heading;
 - (b) section 12, heading;
 - (c) section 13, heading;
 - (d) section 14, heading;
 - (e) section 35, heading;
 - (f) section 36, heading—

Repeal

“經營者” (wherever appearing)

Substitute

“營辦人”.

Part 4

Amendments to Residential Care Homes (Persons with Disabilities) Ordinance (Cap. 613)

55. Section 2 amended (interpretation)

(1) Section 2—

Renumber the section as section 2(1).

(2) Section 2(1), definition of *existing home*—

Repeal

everything after “before”

Substitute

“18 November 2011;”.

(3) Section 2(1), English text, definition of *residential care home for PWDs*—

Repeal the full stop

Substitute a semicolon.

(4) Section 2(1), Chinese text, definition of 豁免證明書—

Repeal the full stop

Substitute a semicolon.

(5) Section 2(1)—

Add in alphabetical order

“*Cap. 459* (《第459章》) means the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459);

Cap. 459A (《第459A章》) means the Residential Care Homes (Elderly Persons) Regulation (Cap. 459 sub. leg. A);

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;

material date (關鍵日期) means the 1st anniversary of the date on which the Residential Care Homes Legislation (Miscellaneous Amendments) Ordinance 2022 (of 2022) is published in the Gazette;

operator (營辦人), in relation to a residential care home for PWDs, means a person who holds a licence or certificate of exemption issued in respect of the residential care home;

residential care home for the elderly (安老院) means a residential care home as defined by section 2(1) of Cap. 459;

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

- (a) has become the responsible person of the residential care home under section 10A(2), 10B(2) or 10I(4); and
- (b) has not ceased to be such a responsible person under section 10F(5), 10G(1) or 10H(4).”.

(6) After section 2(1)—

Add

“(2) To avoid doubt, in this Ordinance, a reference to this Ordinance includes any subsidiary legislation made under this Ordinance.”.

56. Section 4 amended (offence of operating residential care homes for PWDs without licence)

(1) Section 4(2)(a)—

Repeal

everything after “that”

Substitute

“at the relevant time no licence was in force in respect of the residential care home for PWDs;”.

(2) Section 4(2)—

Repeal paragraphs (b) and (c)

Substitute

“(b) if the residential care home for PWDs is an existing home—the person did not know that at the relevant time no certificate of exemption was in force in respect of the residential care home; or

(c) if the residential care home for PWDs is also a residential care home for the elderly—the person did not know that at the relevant time no licence issued under Cap. 459 was in force in respect of the residential care home.”.

(3) Section 4(3)(a)—

Repeal

“at level 6”

Substitute

“of \$1,000,000”.

57. Section 6 amended (certain residential care homes for elderly persons excepted from application of section 4)

(1) Section 6, English text, heading—

Repeal

“elderly persons”

Substitute

“the elderly”.

(2) Section 6—

Repeal

everything after “also a”

Substitute

“residential care home for the elderly if a licence issued under Cap. 459 is in force in respect of the residential care home.”.

58. Part 3, Division 1 heading added

Part 3, before section 7—

Add

“Division 1—Licence Applications”.

59. Section 7 amended (application for and issue of licence)

(1) Section 7(2)(a), after “fit”—

Add

“to impose”.

(2) Section 7(2)(a), Chinese text—

Repeal

“牌照持有人”

Substitute

“營辦人”.

- (3) Section 7(3)(a), English text, after “fit”—

Add

“and proper”.

- (4) After section 7(3)(a)—

Add

“(ab) the applicant does not comply with section 10A(1);

(ac) the person proposed to be the responsible person of the residential care home under section 10A(1) is not a fit and proper person to perform the duties mentioned in section 10D;”.

- (5) Section 7(3)(d)—

Repeal subparagraphs (ii) and (iii)

Substitute

“(ii) the name of a residential care home for PWDs in respect of which a licence is in force or has been suspended, surrendered or cancelled; or

(iii) the name of a residential care home for the elderly in respect of which a licence issued under Cap. 459 is in force or has been suspended, surrendered or cancelled.”.

- (6) Section 7(3)(d)—

Repeal subparagraphs (iv) and (v).

- (7) Section 7(5)—

Repeal

“the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459)”

Substitute

“Cap. 459”.

60. Section 7A added

After section 7—

Add

“7A. Fit and proper requirement for licence applicant

For section 7(3)(a), in considering whether an applicant is a fit and proper person to operate a residential care home for PWDs, 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.”.

61. Section 8 amended (renewal of licence)

(1) Section 8(1)—

Repeal

“A person holding a licence in respect”

Substitute

“The operator”.

(2) After section 8(4)(a)—

Add

- “(ab) on the ground that the operator of the residential care home fails to comply with section 10B(1), 10F(4), 10G(2), 10H or 10J;
- (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 10B(1), 10F(4), 10G(2) or 10H(3) is a fit and proper person to perform the duties mentioned in section 10D;”.
- (3) Section 8(4)(b)(i)—
Repeal
“person holding the licence”
Substitute
“operator”.
- (4) Section 8(4)(c)(ii) and (d)—
Repeal
“person”
Substitute
“operator”.
- (5) Section 8(4)(e), English text—
Repeal
“if”
Substitute
“on the ground that”.
- (6) Section 8(4)(e)(ii)—
Repeal
“person”
Substitute
“operator”.

(7) Section 8(6), Chinese text—

Repeal

“牌照持有人”

Substitute

“營辦人”.

62. Section 9 amended (cancellation or suspension; amendment or variation of conditions of licence)

(1) Section 9(3)—

Repeal

“under the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459)”

Substitute

“under Cap. 459”.

(2) Section 9(3)—

Repeal

“of the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459)”

Substitute

“of that Ordinance”.

63. Section 10 amended (notice of refusal of licence or renewal and of cancellation or suspension, etc.)

(1) Section 10, heading—

Repeal

“of licence or renewal”

Substitute

“to issue or renew licence”.

- (2) Section 10(1)—
Repeal
“person holding the licence in respect”
Substitute
“operator”.
- (3) Section 10(1)(b)—
Repeal
“person”
Substitute
“operator”.
- (4) Section 10(3)—
Repeal
“person holding the licence”
Substitute
“operator”.
- (5) Section 10(3)—
Repeal
“that person”
Substitute
“the operator”.

64. Part 3, Divisions 2 and 3 added

Part 3, after section 10—

Add

“Division 2—Responsible Persons**10A. Licence applicant to propose responsible person**

- (1) For an application for a licence in respect of a residential care home for PWDs under section 7, the applicant must propose a management officer of the applicant (*proposed responsible 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 10C(a).

10B. 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 for PWDs under section 8, 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.
- (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 8(5) applies—on the day on which the renewal takes effect; or
 - (b) if section 8(6) 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 10C(a).

10C. 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 for PWDs, 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
- (d) be made in the form and manner specified by the Director.

10D. Duties of responsible person

The duties of a responsible person of a residential care home for PWDs 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.

10E. Fit and proper requirement for responsible person

For sections 7(3)(ac), 8(4)(ac), 10F(1) and 10I(1)(b), in considering whether a person is a fit and proper person to perform the duties mentioned in section 10D, the Director must have regard to all relevant matters, including the matters set out in Schedule 2.

10F. 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 for PWDs, 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 10D; 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
 - (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.

10G. Change of responsible person because of death, incapacity, etc.

- (1) The responsible person of a residential care home for PWDs 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)—
 - (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.

10H. Change of responsible person in other circumstances

- (1) The operator of a residential care home for PWDs may change the responsible person of the residential care home in circumstances other than those set out in sections 10F and 10G 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.

10I. Director to specify date of becoming responsible person

- (1) This section applies if—
 - (a) the operator of a residential care home for PWDs proposes a management officer of the operator (*proposed responsible person*) to be the responsible person of the residential care home under section 10F(4), 10G(2) or 10H(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 10D.
- (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 10C(a).
- (4) The proposed responsible person becomes the responsible person of the residential care home on the specified date.

Division 3—Reporting Requirements

10J. Operator to report certain events

- (1) The operator of a residential care home for PWDs 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 charge is laid against the operator or the responsible person of the residential care home for an offence in any place;
 - (ii) the operator or the responsible person is convicted of an offence in any place;
 - (iii) the operator or the responsible person becomes an undischarged bankrupt;
 - (iv) the operator or the responsible person enters into a composition or scheme of arrangement with their creditors;
 - (v) 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;

-
- (vi) 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 charge is laid against the operator or the responsible person of the residential care home for an offence in any place;
 - (ii) the operator or the responsible person is convicted of an offence in any place;
 - (iii) the operator goes into liquidation or becomes the subject of a winding-up order;
 - (iv) the operator or the responsible person enters into a composition or scheme of arrangement with their creditors;
 - (v) 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;
 - (vi) the responsible person becomes an undischarged bankrupt;
 - (vii) 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 charge is laid against any partner in the partnership (*partner*) or the responsible person of the residential care home for an offence in any place;
 - (ii) any partner or the responsible person is convicted of an offence in any place;

- (iii) any partner or the responsible person becomes an undischarged bankrupt;
- (iv) any partner goes into liquidation or becomes the subject of a winding-up order;
- (v) any partner or the responsible person enters into a composition or scheme of arrangement with their creditors;
- (vi) a body corporate of which any partner or the responsible person is a director goes into liquidation or becomes the subject of a winding-up order;
- (vii) there is a change in the name or correspondence address of the responsible person.”.

65. Section 11 amended (application for and issue of certificate of exemption)

- (1) Section 11(2)(a), after “fit”—

Add

“to impose”.

- (2) Section 11(2)(a), Chinese text—

Repeal

“持有人”

Substitute

“營辦人”.

66. Section 12 amended (renewal of certificate of exemption)

- (1) Section 12(1)—

Repeal

everything before “expires”

Substitute

“(1) The operator of an existing home may, before the certificate of exemption”.

- (2) Section 12(5), Chinese text—

Repeal

“豁免證明書的持有人根據本條申請將”

Substitute

“的營辦人根據本條申請將豁免”.

67. Section 13 amended (notice of refusal of certificate of exemption or renewal and of revocation, etc.)

- (1) Section 13, heading—

Repeal

“of certificate of exemption or renewal”

Substitute

“to issue or renew certificate of exemption”.

- (2) Section 13(2) and (3)—

Repeal

“person holding the certificate”

Substitute

“operator of the existing home”.

- (3) Section 13(4)—

Repeal

“the person”

Substitute

“the operator”.

- (4) Section 13(4)—

Repeal

“that person”

Substitute

“the operator”.

68. Section 18 amended (Director may direct remedial measures)

Section 18(2)(a)—

Repeal

everything before “of”

Substitute

“(a) must be sent to a person who operates, keeps, manages or otherwise has control”.

69. Section 19 amended (Director may order cessation of use of premises as residential care home for PWDs)

Section 19(2)(a), English text—

Repeal

everything before “of”

Substitute

“(a) must be sent to a person who operates, keeps, manages or otherwise has control”.

70. Section 22 amended (offences in relation to licences and certificates of exemption)

(1) Section 22(1)—

Repeal

“on any occasion”.

(2) Section 22(2)—

Repeal

everything before “of the residential”

Substitute

“(2) If a condition of a licence issued in respect of a residential care home for PWDs is contravened, the operator”.

(3) Section 22(2)—

Repeal

“person” (wherever appearing)

Substitute

“operator”.

(4) Section 22(3)—

Repeal

“on any occasion”.

(5) Section 22(4)—

Repeal

everything before “of the existing”

Substitute

“(4) If a condition of a certificate of exemption issued in respect of an existing home is contravened, the operator”.

(6) Section 22(4)—

Repeal

“person” (wherever appearing)

Substitute

“operator”.

71. Sections 22A, 22B and 22C added

After section 22—

Add

“22A. Liability of responsible person

If the operator of a residential care home for PWDs 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 10D,

the responsible person also commits the offence.

22B. 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—
- (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.

22C. 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.”.

72. Section 24 amended (regulation)

- (1) Section 24(1)(c)—

Repeal

“persons holding the licences in respect”

Substitute

“operators and responsible persons”.

- (2) Section 24(3), English text—

Repeal

everything after “to” and before “of a”

Substitute

“a person who operates, keeps, manages or otherwise has control”.

73. Part 8 heading repealed (consequential and related amendments)

Part 8, heading—

Repeal the heading.

74. Schedules 1 and 2 added

At the end of the Ordinance—

Add

“Schedule 1

[s. 7A]

Fit and Proper Requirement for Licence Applicant

1. Matters for sole proprietor

For section 7A(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. 459 or Cap. 459A;
- (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. 459; or
 - (C) a certificate of exemption;
 - (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. 459 or Cap. 459A; 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 7A(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. 459 or Cap. 459A;
- (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;
 - (B) a licence as defined by section 2(1) of Cap. 459; or
 - (C) a certificate of exemption;
 - (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. 459 or Cap. 459A; 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 7A(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;
 - (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. 459 or Cap. 459A;
- (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. 459; or
 - (C) a certificate of exemption;
- (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. 459 or Cap. 459A; 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
 - (iv) is a director of any body corporate that is in liquidation or is the subject of a winding-up order.
-

Schedule 2

[s. 10E]

Fit and Proper Requirement for Responsible Person

For section 10E, 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. 459 or Cap. 459A;
- (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. 459; or
 - (C) a certificate of exemption;
 - (ii) any application for the renewal of a licence or certificate of exemption mentioned in subparagraph (i);

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- (iii) compliance with the conditions of a licence or certificate of exemption mentioned in subparagraph (i); and
 - (iv) compliance with this Ordinance, Cap. 459 or Cap. 459A; 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.”.
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Part 5

Amendments to Residential Care Homes (Persons with Disabilities) Regulation (Cap. 613 sub. leg. A)

75. Section 2 amended (interpretation)

(1) Section 2—

Repeal the definition of *health worker*

Substitute

“*health worker* (保健員) means a person who is responsible for providing health and care services to residents;”.

(2) Section 2, English text, definition of *particulars of identity*—

Repeal

“(Cap. 177).”

Substitute

“(Cap. 177);”.

(3) Section 2—

Repeal the definitions of *nurse* and *operator*.

(4) Section 2—

Add in alphabetical order

“*applicable fee* (適用費用), in relation to a matter, means the fee specified in Schedule 2 payable for that matter;

high care level home (高度照顧院舍) means a residential care home for PWDs within the meaning of section 3(a);

low care level home (低度照顧院舍) means a residential care home for PWDs within the meaning of section 3(c);

medium care level home (中度照顧院舍) means a residential care home for PWDs within the meaning of section 3(b);

pre-material-date home manager (關鍵日期前的主管) means a person who was employed as a home manager in a residential care home for PWDs or a residential care home for the elderly immediately before the material date;

register of health workers (保健員註冊紀錄冊) means the register kept under section 5(1);

register of home managers (主管註冊紀錄冊) means the register kept under section 3X(1);

registered health worker (註冊保健員) means a person whose name appears on the register of health workers;

registered home manager (註冊主管) means a person whose name appears on the list of persons registered as registered home managers in the register of home managers;

registered home manager (provisional) (註冊主管(臨時)) means a person whose name appears on the list of persons registered as registered home managers (provisional) in the register of home managers;

Secretary (局長) means the Secretary for Labour and Welfare.”.

76. Section 3 amended (types of residential care homes for PWDs)

Section 3, after “Ordinance”—

Add

“and this Regulation”.

77. Part 2A added

After Part 2—

Add

“Part 2A

Registration of Home Managers

Division 1—Registered Home Managers

3A. Application for registration as registered home manager

- (1) An application for registration as a registered home manager must—
 - (a) be made to the Director in the form and manner specified by the Director; and
 - (b) contain the information specified by the Director.
- (2) On the application, the Director may register the applicant as a registered home manager if—
 - (a) the Director is satisfied that the applicant—
 - (i) meets the qualification requirement specified in section 3B;
 - (ii) is competent to perform the duties of a home manager; and
 - (iii) is fit and proper to be so registered; and
 - (b) the applicant has paid the applicable fee for the registration.

- (3) The Director may impose on the registration any condition that the Director considers appropriate, including any condition relating to continuous learning.

3B. Qualification requirement for registration as registered home manager

- (1) For section 3A(2)(a)(i), the qualification requirement is that—
 - (a) the person—
 - (i) is one specified in subsection (2)(a), (b), (c) or (d); and
 - (ii) has completed a training course specified by the Director; or
 - (b) the person is a registered home manager as defined by section 2 of Cap. 459A.
- (2) The following persons are specified for subsection (1)(a)(i)—
 - (a) a person who—
 - (i) holds—
 - (A) a professional qualification relating to healthcare or social work specified by the Director; or
 - (B) a bachelor or higher degree, or an academic qualification regarded by the Director as equivalent; and
 - (ii) has, within 3 years before making the application, worked in one or more residential care homes for PWDs or residential care homes for the elderly for a total of at least 1 year in a position

- involving or assisting in the management of the residential care homes for PWDs or residential care homes for the elderly;
- (b) a person who—
 - (i) is a registered health worker within the meaning of this Regulation, or a registered health worker as defined by section 2 of Cap. 459A; and
 - (ii) has worked in one or more residential care homes for PWDs or residential care homes for the elderly as a health worker for a total of at least 5 years;
 - (c) a pre-material-date home manager who applies for registration as a registered home manager under section 3A during the 6-month period beginning on the material date;
 - (d) a pre-material-date home manager who is—
 - (i) a registered home manager (provisional) within the meaning of this Regulation; or
 - (ii) a registered home manager (provisional) as defined by section 2 of Cap. 459A.

3C. Fit and proper requirement for registration as registered home manager

For section 3A(2)(a)(iii), in considering whether a person is fit and proper to be registered as a registered home manager, the Director must have regard to all relevant matters, including—

- (a) whether the person has been—

- (i) convicted of an offence involving fraud or dishonesty, or of a sexual nature, 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 the Ordinance, this Regulation, Cap. 459 or Cap. 459A; and
- (b) if any professional or academic qualification of the person (whether or not relating to healthcare or social work) has been revoked—the reason for the revocation.

3D. Notice of decision on application for registration

- (1) On determining an application under section 3A, the Director must give a written notice of the decision to the applicant.
- (2) If the application is approved, the notice must state the validity period of the registration.
- (3) If the application is refused, the notice must state—
 - (a) the reason for the refusal; and
 - (b) that the applicant may appeal under section 3K.

3E. Renewal of registration as registered home manager

- (1) A registered home manager may apply for the renewal of the registration.
- (2) The application must—

- (a) be made to the Director at least 3 months before, but not earlier than 6 months before, the expiry of the registration;
 - (b) be made in the form and manner specified by the Director; and
 - (c) contain the information specified by the Director.
- (3) On the application, the Director may renew the registration if—
- (a) the Director is satisfied that the registered home manager—
 - (i) still meets the requirements for registration under section 3A(2)(a)(ii) and (iii); and
 - (ii) complies with all conditions imposed on the registration; and
 - (b) the manager has paid the applicable fee for the renewal.
- (4) The Director may impose on the renewed registration any condition that the Director considers appropriate, including any condition relating to continuous learning.

3F. Notice of decision on application for renewal of registration

- (1) On determining an application under section 3E, the Director must give a written notice of the decision to the applicant.
- (2) If the application is approved, the notice must state the validity period of the renewed registration.
- (3) If the application is refused, the notice must state—
 - (a) the reason for the refusal; and

(b) that the applicant may appeal under section 3K.

3G. Registration remains in effect pending determination of renewal application

- (1) This section applies if—
 - (a) a registered home manager applies for the renewal of the registration under section 3E; and
 - (b) the registration would, but for this section, have expired before the application is determined.
- (2) The registration remains in effect until—
 - (a) the Director determines the application; or
 - (b) the registered home manager withdraws the application.

3H. Validity period of registration as registered home manager

The validity period of a registration or renewed registration as a registered home manager is to be decided by the Director and must not exceed 5 years.

3I. Cancellation of registration as registered home manager

- (1) The Director may cancel a person's registration as a registered home manager if satisfied that—
 - (a) the registration was obtained by fraudulent means;
 - (b) the person no longer meets the requirement for registration under section 3A(2)(a)(ii) or (iii); or
 - (c) the person contravenes—
 - (i) a condition imposed on the registration under section 3A(3) or 3E(4); or

- (ii) section 3W.
- (2) The Director must cancel a person's registration as a registered home manager—
 - (a) if the person makes a written request to the Director for cancelling the registration; or
 - (b) if—
 - (i) the person was also registered as a registered home manager or registered home manager (provisional) under Cap. 459A; and
 - (ii) that registration under Cap. 459A is cancelled under section 3I(1)(a) or (b) or 3T(1)(a) or (b) of Cap. 459A.
- (3) The cancellation takes effect—
 - (a) for a cancellation under subsection (1)—subject to section 3K(3), on the expiry of 21 days after the day on which the Director gives the notice under section 3J; or
 - (b) for a cancellation under subsection (2)—on the expiry of 21 days after the day on which the Director gives the notice under section 3J.

3J. Notice of cancellation of registration

- (1) If the Director decides to cancel a person's registration under section 3I, the Director must give a written notice of the decision to—
 - (a) the person; and
 - (b) if the person is employed in a residential care home for PWDs when the decision is made—the operator of the residential care home.

- (2) The notice must state—
 - (a) the date on which the cancellation takes effect under section 3I(3);
 - (b) the reason for cancelling the registration; and
 - (c) if the registration is cancelled under section 3I(1)—that the person may appeal under section 3K.

3K. Appeals to Secretary

- (1) If the Director—
 - (a) decides to refuse to register a person under section 3A;
 - (b) decides to refuse to renew a person’s registration under section 3E; or
 - (c) decides to cancel a person’s registration under section 3I(1),the person may, by written notice, appeal to the Secretary against the decision.
- (2) The notice must—
 - (a) state the grounds of appeal; and
 - (b) be delivered to the Director within 21 days after the day on which the Director gives the notice of the decision.
- (3) If an appeal is made against a decision described in subsection (1)(c), the decision does not have effect pending the determination of the appeal by the Secretary.
- (4) When considering an appeal against a decision of the Director, the Secretary—

- (a) must give the appellant and the Director an opportunity of being heard; and
 - (b) may confirm or reverse the decision.
- (5) On the determination of the appeal by the Secretary, the Director must give a written notice of the determination to—
- (a) the appellant; and
 - (b) if the appellant is employed in a residential care home for PWDs when the appeal is determined—the operator of the residential care home.

3L. Registration remains in effect pending determination of appeal

- (1) This section applies if—
- (a) a person appeals against a decision described in section 3K(1)(b) or (c); and
 - (b) the person's registration as a registered home manager would, but for this section, have expired before the appeal is determined.
- (2) The registration remains in effect until—
- (a) the Secretary determines the appeal; or
 - (b) the person withdraws the appeal.

Division 2—Registered Home Managers (Provisional)

3M. Application for registration as registered home manager (provisional)

- (1) An application for registration as a registered home manager (provisional) must—

- (a) be made to the Director in the form and manner specified by the Director; and
 - (b) contain the information specified by the Director.
- (2) On the application, the Director may register the applicant as a registered home manager (provisional) if—
- (a) the Director is satisfied that the applicant—
 - (i) meets the qualification requirement specified in section 3N;
 - (ii) is competent to perform the duties of a home manager;
 - (iii) is fit and proper to be so registered; and
 - (iv) if the applicant is not a pre-material-date home manager—on being so registered, will be employed as a home manager in a residential care home for PWDs under section 11(1)(a); and
 - (b) the applicant has paid the applicable fee for the registration.
- (3) The Director may impose on the registration any condition that the Director considers appropriate, including any condition relating to continuous learning.

3N. Qualification requirement for registration as registered home manager (provisional)

For section 3M(2)(a)(i), the qualification requirement is that the person—

- (a) holds a professional qualification relating to healthcare or social work specified by the Director;
- (b) holds a bachelor or higher degree, or an academic qualification regarded by the Director as equivalent; or
- (c) is a pre-material-date home manager who applies for registration as a registered home manager (provisional) under section 3M during the 6-month period beginning on the material date.

3O. Fit and proper requirement for registration as registered home manager (provisional)

For section 3M(2)(a)(iii), in considering whether a person is fit and proper to be registered as a registered home manager (provisional), the Director must have regard to all relevant matters, including the matters mentioned in section 3C(a) and (b).

3P. Notice of decision on application for registration

- (1) On determining an application under section 3M, the Director must give a written notice of the decision to the applicant.
- (2) If the application is approved, the notice must state the validity period of the registration.
- (3) If the application is refused, the notice must state—
 - (a) the reason for the refusal; and
 - (b) that the applicant may appeal under section 3V.

3Q. Validity period of registration as registered home manager (provisional)

The validity period of a registration as a registered home manager (provisional) is to be decided by the Director and must not exceed 2 years.

3R. Extension of validity period

- (1) A person who is registered as a registered home manager (provisional) because of meeting the qualification requirement specified in section 3N(c) may apply for the extension of the validity period of the registration once.
- (2) The application must—
 - (a) be made to the Director before the expiry of the registration;
 - (b) be made in the form and manner specified by the Director; and
 - (c) contain the information specified by the Director.
- (3) The Director may extend the validity period of the registration for a period of not more than 2 years only if satisfied that there are exceptional circumstances that justify the extension.

3S. Registration remains in effect pending determination of certain application

- (1) This section applies if—
 - (a) a registered home manager (provisional) applies—
 - (i) for registration under section 3A; or

- (ii) for the extension of the validity period of the registration under section 3R; and
 - (b) the registration would, but for this section, have expired before the application is determined.
- (2) The registration remains in effect until—
 - (a) the Director determines the application; or
 - (b) the registered home manager (provisional) withdraws the application.

3T. Cancellation of registration as registered home manager (provisional)

- (1) The Director may cancel a person's registration as a registered home manager (provisional) if satisfied that—
 - (a) the registration was obtained by fraudulent means;
 - (b) the person no longer meets the requirement for registration under section 3M(2)(a)(ii) or (iii); or
 - (c) the person contravenes—
 - (i) a condition imposed on the registration under section 3M(3); or
 - (ii) section 3W.
- (2) The Director must cancel a person's registration as a registered home manager (provisional)—
 - (a) if the person is registered as a registered home manager under section 3A;
 - (b) if the person makes a written request to the Director for cancelling the registration; or
 - (c) if—

- (i) the person was also registered as a registered home manager or registered home manager (provisional) under Cap. 459A; and
 - (ii) that registration under Cap. 459A is cancelled under section 3I(1)(a) or (b) or 3T(1)(a) or (b) of Cap. 459A.
- (3) The cancellation takes effect—
 - (a) for a cancellation under subsection (1)—subject to section 3V(3), on the expiry of 21 days after the day on which the Director gives the notice under section 3U;
 - (b) for a cancellation under subsection (2)(a)—on the day on which the registration under section 3A takes effect; or
 - (c) for a cancellation under subsection (2)(b) or (c)—on the expiry of 21 days after the day on which the Director gives the notice under section 3U.

3U. Notice of cancellation of registration

- (1) If the Director decides to cancel a person's registration under section 3T, the Director must give a written notice of the decision to—
 - (a) the person; and
 - (b) if the person is employed in a residential care home for PWDs when the decision is made—the operator of the residential care home.
- (2) The notice must state—
 - (a) the date on which the cancellation takes effect under section 3T(3);

- (b) the reason for cancelling the registration; and
- (c) if the registration is cancelled under section 3T(1)—that the person may appeal under section 3V.

3V. Appeals to Secretary

- (1) If the Director—
 - (a) decides to refuse to register a person under section 3M; or
 - (b) decides to cancel a person’s registration under section 3T(1),the person may, by written notice, appeal to the Secretary against the decision.
- (2) The notice must—
 - (a) state the grounds of appeal; and
 - (b) be delivered to the Director within 21 days after the day on which the Director gives the notice of the decision.
- (3) If an appeal is made against a decision described in subsection (1)(b), the decision does not have effect pending the determination of the appeal by the Secretary.
- (4) When considering an appeal against a decision of the Director, the Secretary—
 - (a) must give the appellant and the Director an opportunity of being heard; and
 - (b) may confirm or reverse the decision.
- (5) On the determination of the appeal by the Secretary, the Director must give a written notice of the determination to—

- (a) the appellant; and
- (b) if the appellant is employed in a residential care home for PWDs when the appeal is determined—the operator of the residential care home.

Division 3—Reporting Requirements

3W. Registered home manager or registered home manager (provisional) to report certain events

- (1) A registered home manager or a registered home manager (provisional) must report to the Director if—
 - (a) a charge is laid against the manager for an offence in any place;
 - (b) the manager is convicted of an offence in any place;
 - (c) any professional or academic qualification of the manager (whether or not relating to healthcare or social work) is revoked; or
 - (d) there is a change in the name or correspondence address of the manager.
- (2) The report must—
 - (a) be given in writing—
 - (i) for an event described in subsection (1)(a), (b) or (c)—as soon as reasonably practicable after the event occurs; or
 - (ii) for a change described in subsection (1)(d)—within 3 months after the change occurs; and

- (b) contain the information specified by the Director.

Division 4—Register of Home Managers

3X. Register of home managers

- (1) The Director must keep a register containing—
 - (a) a list of persons registered as registered home managers under Division 1; and
 - (b) a list of persons registered as registered home managers (provisional) under Division 2.
- (2) The purpose of the register is to enable the public to ascertain—
 - (a) whether a person is a registered home manager or registered home manager (provisional); and
 - (b) the particulars of the registration.
- (3) Each list in the register—
 - (a) must contain the name and correspondence address of each person on the list; and
 - (b) may contain other particulars that the Director considers appropriate.
- (4) The Director may make any amendment to the register that the Director considers necessary for securing its accuracy or keeping it up-to-date.
- (5) The Director must remove from the register the name of a person if—
 - (a) it has come to the notice of the Director that the person has died; or
 - (b) the person's registration ceases to have effect on expiry or cancellation.

3Y. Inspection of register of home managers

The Director must make the register of home managers available for public inspection—

- (a) free of charge;
- (b) at offices of the Government that the Director directs; and
- (c) during the hours when those offices are open to the public.”.

78. Section 4 amended (qualifications for registration as health workers)

- (1) Section 4, heading—

Repeal

“health workers”

Substitute

“registered health worker”.

- (2) Section 4—

Repeal

“health worker” (wherever appearing)

Substitute

“registered health worker”.

79. Section 5 amended (register of health workers)

- (1) Section 5—

Repeal subsection (1)

Substitute

- “(1) The Director must keep a register containing a list of persons registered as registered health workers under this Part.

- (1A) The purpose of the register is to enable the public to ascertain—
- (a) whether a person is a registered health worker; and
 - (b) the particulars of the registration.
- (1B) The register—
- (a) must contain the name and correspondence address of each person in the register; and
 - (b) may contain other particulars that the Director considers appropriate.”.

(2) Section 5—

Repeal subsections (3) and (4)

Substitute

- “(3) The Director may make any amendment to the register that the Director considers necessary for securing its accuracy or keeping it up-to-date.
- (4) The Director must remove from the register the name of a person if—
- (a) it has come to the notice of the Director that the person has died; or
 - (b) the person’s registration ceases to have effect on expiry or cancellation.”.

(3) Section 5—

Repeal subsection (5).

80. Section 6 substituted

Section 6—

Repeal the section

Substitute

“6. Application for registration as registered health worker

- (1) An application for registration as a registered health worker must—
 - (a) be made to the Director in the form and manner specified by the Director; and
 - (b) contain the information specified by the Director.
- (2) On the application, the Director may register the applicant as a registered health worker if—
 - (a) the Director is satisfied that the applicant—
 - (i) is qualified under section 4 to be so registered;
 - (ii) is competent to perform the duties of a health worker; and
 - (iii) is fit and proper to be so registered; and
 - (b) the applicant has paid the applicable fee for the registration.
- (3) The Director may impose on the registration any condition that the Director considers appropriate, including any condition relating to continuous learning.”.

81. Section 7 substituted

Section 7—

Repeal the section

Substitute

“7. Notice of decision on application for registration

- (1) On determining an application under section 6, the Director must give a written notice of the decision to the applicant.
- (2) If the application is approved, the notice must state the validity period of the registration.
- (3) If the application is refused, the notice must state—
 - (a) the reason for the refusal; and
 - (b) that the applicant may appeal under section 10.”.

82. Sections 7A to 7D added

After section 7—

Add

“7A. Renewal of registration as registered health worker

- (1) A registered health worker may apply for the renewal of the registration.
- (2) The application must—
 - (a) be made to the Director at least 3 months before, but not earlier than 6 months before, the expiry of the registration;
 - (b) be made in the form and manner specified by the Director; and
 - (c) contain the information specified by the Director.
- (3) On the application, the Director may renew the registration if—
 - (a) the Director is satisfied that the registered health worker—

- (i) still meets the requirements for registration under section 6(2)(a); and
 - (ii) complies with all conditions imposed on the registration; and
- (b) the health worker has paid the applicable fee for the renewal.
- (4) The Director may impose on the renewed registration any condition that the Director considers appropriate, including any condition relating to continuous learning.

7B. Notice of decision on application for renewal of registration

- (1) On determining an application under section 7A, the Director must give a written notice of the decision to the applicant.
- (2) If the application is approved, the notice must state the validity period of the renewed registration.
- (3) If the application is refused, the notice must state—
 - (a) the reason for the refusal; and
 - (b) that the applicant may appeal under section 10.

7C. Registration remains in effect pending determination of renewal application

- (1) This section applies if—
 - (a) a registered health worker applies for the renewal of the registration under section 7A; and
 - (b) the registration would, but for this section, have expired before the application is determined.
- (2) The registration remains in effect until—

- (a) the Director determines the application; or
- (b) the registered health worker withdraws the application.

7D. Validity period of registration as registered health worker

The validity period of a registration or renewed registration as a registered health worker is to be decided by the Director and must not exceed 5 years.”.

83. Section 8 substituted

Section 8—

Repeal the section

Substitute

“8. Cancellation of registration as registered health worker

- (1) The Director may cancel a person’s registration as a registered health worker if satisfied that—
 - (a) the registration was obtained by fraudulent means;
 - (b) the person no longer meets the requirement for registration under section 6(2)(a)(i), (ii) or (iii); or
 - (c) the person contravenes—
 - (i) a condition imposed on the registration under section 6(3) or 7A(4); or
 - (ii) section 10B.
- (2) The Director must cancel a person’s registration as a registered health worker—
 - (a) if the person makes a written request to the Director for cancelling the registration; or

- (b) if—
 - (i) the person was also registered as a registered health worker under Cap. 459A; and
 - (ii) that registration under Cap. 459A is cancelled under section 8(1)(a) or (b) of Cap. 459A.
- (3) The cancellation takes effect—
 - (a) for a cancellation under subsection (1)—subject to section 10(3), on the expiry of 21 days after the day on which the Director gives the notice under section 9; or
 - (b) for a cancellation under subsection (2)—on the expiry of 21 days after the day on which the Director gives the notice under section 9.”.

84. Section 9 amended (notice of cancellation of registration)

Section 9—

Repeal subsections (1) and (2)

Substitute

- “(1) If the Director decides to cancel a person’s registration under section 8, the Director must give a written notice of the decision to—
- (a) the person; and
 - (b) if the person is employed in a residential care home for PWDs when the decision is made— the operator of the residential care home.
- (2) The notice must state—
- (a) the date on which the cancellation takes effect under section 8(3);

- (b) the reason for cancelling the registration; and
- (c) if the registration is cancelled under section 8(1)—that the person may appeal under section 10.”.

85. Section 10 substituted

Section 10—

**Repeal the section
Substitute**

“10. Appeals to Secretary

- (1) If the Director—
 - (a) decides to refuse to register a person under section 6;
 - (b) decides to refuse to renew a person’s registration under section 7A; or
 - (c) decides to cancel a person’s registration under section 8(1),the person may, by written notice, appeal to the Secretary against the decision.
- (2) The notice must—
 - (a) state the grounds of appeal; and
 - (b) be delivered to the Director within 21 days after the day on which the Director gives the notice of the decision.
- (3) If an appeal is made against a decision described in subsection (1)(c), the decision does not have effect pending the determination of the appeal by the Secretary.

- (4) When considering an appeal against a decision of the Director, the Secretary—
 - (a) must give the appellant and the Director an opportunity of being heard; and
 - (b) may confirm or reverse the decision.
- (5) On the determination of the appeal by the Secretary, the Director must give a written notice of the determination to—
 - (a) the appellant; and
 - (b) if the appellant is employed in a residential care home for PWDs when the appeal is determined—the operator of the residential care home.”.

86. Sections 10A to 10D added

Part 3, after section 10—

Add

“10A. Registration remains in effect pending determination of appeal

- (1) This section applies if—
 - (a) a person appeals against a decision described in section 10(1)(b) or (c); and
 - (b) the person’s registration as a registered health worker would, but for this section, have expired before the appeal is determined.
- (2) The registration remains in effect until—
 - (a) the Secretary determines the appeal; or
 - (b) the person withdraws the appeal.

10B. Registered health worker to report certain events

- (1) A registered health worker must report to the Director if—
 - (a) a charge is laid against the health worker for an offence in any place;
 - (b) the health worker is convicted of an offence in any place; or
 - (c) there is a change in the name or correspondence address of the health worker.
- (2) The report must—
 - (a) be given in writing—
 - (i) for an event described in subsection (1)(a) or (b)—as soon as reasonably practicable after the event occurs; or
 - (ii) for a change described in subsection (1)(c)—within 3 months after the change occurs; and
 - (b) contain the information specified by the Director.

10C. Transitional provisions relating to registration before material date

- (1) Unless renewed under section 7A, a registration under section 6 that has effect immediately before the material date expires at midnight on the last day of the 5-year period beginning on the material date (*expiry date*).
- (2) Despite section 7A(2)(a), an application for the renewal of the registration—

- (a) may be made at any time on or after the material date; but
- (b) must be made at least 6 months before the expiry date.

10D. Application for registration as registered health worker pending on material date

If an application for registration under section 6—

- (a) was made before the material date; but
- (b) has not been determined by the Director before that date,

this Part, as amended by the Residential Care Homes Legislation (Miscellaneous Amendments) Ordinance 2022 (of 2022), applies in relation to the application.”.

87. Section 11 amended (employment of staff by operators)

- (1) Section 11, heading—

Repeal

“Employment of staff by operators”

Substitute

“Staffing requirements”.

- (2) Section 11—

Repeal subsection (1)

Substitute

“(1) An operator of a residential care home for PWDs must—

- (a) employ a home manager for the residential care home; and

(b) ensure that Schedule 1 is complied with in relation to the residential care home.”.

(3) Section 11(2)—

Repeal paragraph (a)

Substitute

“(a) a home manager—

- (i) unless the person is a registered home manager or a registered home manager (provisional); and
- (ii) for any purpose other than employment as a home manager;”.

(4) Section 11(2)(d)(i)—

Repeal

everything after “person”

Substitute

“is a registered health worker; and”.

(5) Section 11(2)(e)(i)—

Repeal

everything after “person”

Substitute

“is a registered nurse, or an enrolled nurse, as defined by section 2(1) of the Nurses Registration Ordinance (Cap. 164); and”.

(6) Section 11(4)—

Repeal

“level 4”

Substitute

“level 5”.

88. Section 12 amended (maintenance of records by operators)

Section 12(2)—

Repeal

“level 4”

Substitute

“level 5”.

89. Section 13 amended (operators to provide plans etc.)

Section 13(3)—

Repeal

“level 4”

Substitute

“level 5”.

90. Section 14 amended (operators to provide details of fees)

(1) Section 14(1) and (3), Chinese text—

Repeal

“繳交”

Substitute

“繳付”.

(2) Section 14(4)—

Repeal

“level 4”

Substitute

“level 5”.

91. Section 15 amended (operators to ensure advertisement contains certain information)

(1) Section 15, Chinese text, heading—

Repeal

“若干”

Substitute

“某些”.

(2) Section 15(1)—

Repeal

“an advertisement”

Substitute

“every advertisement published by or on behalf of the operator”.

(3) Section 15—

Repeal subsection (2).

(4) Section 15(3)—

Repeal

“level 4”

Substitute

“level 5”.

(5) After section 15(3)—

Add

“(4) In subsection (1)—

advertisement (廣告) includes any advertisement in the form of any words (written or spoken), picture, drawing, visual image, figure or article—

(a) appearing in any publication; or

(b) brought to the notice of the general public or any section of the general public in any other way;

publish (發布) includes issue, circulate, display, distribute and broadcast.”.

92. Section 15A added

Part 5, before section 16—

Add

“15A. Application of Part 5

This Part applies to a person who is employed by an operator of a residential care home for PWDs as a home manager of the residential care home in compliance with section 11(1)(a).”.

93. Section 16 amended (submission of staff list by home managers)

Section 16(3)—

Repeal

“level 3”

Substitute

“level 5”.

94. Section 17 amended (maintenance of records by home managers)

(1) Section 17(1)(g), English text—

Repeal

“mechanical”.

(2) Section 17(1)(g), English text—

Repeal

“self injury”

Substitute

“self-injury”.

- (3) Section 17(1)(g), Chinese text—

Repeal

“物品”

Substitute

“措施”.

- (4) Section 17(2)—

Repeal

“level 3”

Substitute

“level 5”.

95. Section 18 amended (information to be provided by home managers)

Section 18(3)—

Repeal

“level 3”

Substitute

“level 5”.

96. Section 19 amended (home managers to report scheduled infectious disease)

Section 19(2)—

Repeal

“level 3”

Substitute

“level 5”.

97. Section 23 amended (area of floor space per resident)

Section 23—

Repeal subsection (1)

Substitute

- “(1) The minimum area of floor space required for each resident of a residential care home for PWDs is—
- (a) for a high care level home—9.5 m²; or
 - (b) for a medium care level home or a low care level home—8 m².
- (1A) Despite subsection (1)—
- (a) for a high care level home to which this subsection applies, the minimum area of floor space required for each resident is—
 - (i) during the 4-year period beginning on the material date—6.5 m²; and
 - (ii) during the 4-year period immediately after the period mentioned in subparagraph (i)—8 m²; or
 - (b) for a medium care level home or a low care level home to which this subsection applies, during the 8-year period beginning on the material date, the minimum area of floor space required for each resident is 6.5 m².
- (1B) Subsection (1A) applies to a residential care home for PWDs if—
- (a) a licence was in force in respect of the residential care home immediately before the material date; or

(b) a licence is issued in respect of the residential care home on or after the material date on an application made before that date.”.

98. Part 7 heading amended (precautions against fire and other risks)

Part 7, heading—

Repeal

“Precautions against Fire and Other Risks”

Substitute

“Residents’ Health, Safety and Well-being”.

99. Section 29 amended (precautions for health and safety)

Section 29, Chinese text—

Repeal

“建造組成部分”

Substitute

“建築構件”.

100. Section 32 amended (inspection of premises by members of Fire Services Department)

Section 32(3)—

Repeal

“level 3”

Substitute

“level 5”.

101. Section 34 substituted

Section 34—

Repeal the section

Substitute**“34. Storage and administration of medicine**

- (1) All medicine kept in a residential care home for PWDs must, to the satisfaction of the Director, be kept in a secure and locked place.
- (2) A medicine may only be administered to a resident in a residential care home for PWDs in accordance with the prescription given for the resident by a registered medical practitioner, a registered Chinese medicine practitioner or a listed Chinese medicine practitioner.
- (3) In this section—

listed Chinese medicine practitioner (表列中醫) has the meaning given by section 2(1) of the Chinese Medicine Ordinance (Cap. 549);

registered Chinese medicine practitioner (註冊中醫) has the meaning given by section 2(1) of the Chinese Medicine Ordinance (Cap. 549).”.

102. Sections 34A and 34B added

After section 34—

Add**“34A. Use of restraints**

- (1) A restraint must not be used on a resident in a residential care home for PWDs unless—
 - (a) the safety, health or well-being of the resident or other persons is endangered;
 - (b) no other less restrictive means to avoid the danger are available in the circumstances; and

- (c) the requirements relating to obtaining consent to the use of restraint as set out in the Codes of Practice issued under section 23 of the Ordinance are complied with.
- (2) A restraint may only be used—
 - (a) in the safe and proper manner as set out in the Codes of Practice; and
 - (b) for no longer than is necessary.
- (3) The use of a restraint must be closely monitored and reviewed to ensure that subsections (1) and (2) are complied with in relation to the continued use of the restraint.

34B. Protection of residents’ dignity and privacy when providing care etc.

When a personal care service is provided to, or a nursing care procedure is performed on, a resident in a residential care home for PWDs, adequate facilities or measures must be provided or taken, to the satisfaction of the Director, to avoid improper exposure of body parts and protect the dignity and privacy of the resident.”.

103. Section 35 heading amended (examination of residents)

Section 35, English text, heading—

Repeal

“Examination”

Substitute

“Medical examination”.

104. Section 37 substituted

Section 37—

Repeal the section

Substitute

“37. Fees

A fee specified in column 3 of Schedule 2 is payable to the Director for the matter described, opposite the fee, in column 2 of that Schedule.”.

105. Schedule substituted

The Schedule—

Repeal the Schedule

Substitute

“Schedule 1

[s. 11]

Minimum Staffing Requirements

Part 1

Preliminary

1. Interpretation of Schedule 1

In this Schedule—

on call (候命) means standing by and being ready to be on duty as soon as practicable after being called on;

on-site (在場), in relation to a residential care home for PWDs, means being present in the residential care home;

specified period (指明期間), in relation to a day, means the period from 6 a.m. to 10 p.m. on that day;

staff member (員工) means a home manager, a nurse, a health worker, a care worker or an ancillary worker.

2. Number of residents to be rounded up to next multiple

If, in relation to a residential care home for PWDs—

- (a) this Schedule requires at least 1 staff member for every specified number of residents (***specified number***); and
- (b) the number of residents of the residential care home is not a multiple of the specified number,

then, for the purpose of determining the number of staff members required, the number of residents of the residential care home is to be rounded up to the next multiple of the specified number.

Part 2

Minimum Staffing Requirements

3. High care level home

For a high care level home, during or at the time specified in column 2 of Table 1 on every day, there must be at least the number of staff members that is specified in column 3 of Table 1 opposite the time.

Table 1

Column 1 Item	Column 2 Time	Column 3 Minimum staffing requirement
------------------	------------------	------------------------------------------

Nurse and Health Worker

- | | | |
|----|--------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. | 13 hours within the specified period | 1 health worker (on duty) for every 30 residents, and for this purpose, 1 nurse (on duty) is considered equivalent to 2 health workers (on duty) |
|----|--------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------|

Care Worker

- | | | |
|----|------------------------------------------------------|------------------------------------------------|
| 2. | 10 hours within the specified period | 1 care worker (on duty) for every 20 residents |
| 3. | Any time other than the 10 hours mentioned in item 2 | 1 care worker (on duty) for every 40 residents |

Ancillary Worker

- | | | |
|----|--------------------------------------|-----------------------------------------------------|
| 4. | 11 hours within the specified period | 1 ancillary worker (on duty) for every 40 residents |
|----|--------------------------------------|-----------------------------------------------------|

Column 1 Item	Column 2 Time	Column 3 Minimum staffing requirement
------------------	------------------	------------------------------------------

Any Staff Member

- | | | |
|----|---------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------|
| 5. | From 6 p.m. on a day to 7 a.m. on the next day | 2 staff members (on duty) (who may be persons engaged for complying with a requirement specified in any other item of this Table) |
| 6. | Any time when a resident is in the high care level home | 1 staff member (on-site and on duty) (who may be a person engaged for complying with a requirement specified in any other item of this Table) |

4. Medium care level home

For a medium care level home, during or at the time specified in column 2 of Table 2 on every day, there must be at least the number of staff members that is specified in column 3 of Table 2 opposite the time.

Table 2

Column 1 Item	Column 2 Time	Column 3 Minimum staffing requirement
------------------	------------------	------------------------------------------

Nurse and Health Worker

- | | | |
|----|-------------------------------------|-----------------------------------------------------------------------------------|
| 1. | 6 hours within the specified period | (a) 1 nurse (on duty); or
(b) 1 health worker (on duty) for every 60 residents |
|----|-------------------------------------|-----------------------------------------------------------------------------------|

Care Worker and Ancillary Worker

- | | | |
|----|--------------------------------------|------------------------------------------------------------------------------|
| 2. | 11 hours within the specified period | 1 care worker (on duty) or ancillary worker (on duty) for every 30 residents |
|----|--------------------------------------|------------------------------------------------------------------------------|

Any Staff Member

- | | | |
|----|------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3. | From 6 p.m. on a day to 7 a.m. on the next day | Both of the following staff members (who may be persons engaged for complying with a requirement specified in any other item of this Table)—
(a) 1 staff member (on duty);
(b) 1 staff member on-site (whether or not on duty) |
|----|------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Column 1 Item	Column 2 Time	Column 3 Minimum staffing requirement
4.	Any time when a resident is in the medium care level home	1 staff member (on-site and on duty) (who may be a person engaged for complying with a requirement specified in any other item of this Table)

5. Low care level home

For a low care level home, during or at the time specified in column 2 of Table 3 on every day, there must be at least the number of staff members that is specified in column 3 of Table 3 opposite the time.

Table 3

Column 1 Item	Column 2 Time	Column 3 Minimum staffing requirement
------------------	------------------	------------------------------------------

Care Worker and Ancillary Worker

1.	11 hours within the specified period	1 care worker (on duty) or ancillary worker (on duty) for every 60 residents
----	--------------------------------------	------------------------------------------------------------------------------

Column 1 Item	Column 2 Time	Column 3 Minimum staffing requirement
------------------	------------------	------------------------------------------

Any Staff Member

- | | | |
|----|----------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2. | Any time between 7 a.m. and 6 p.m. when a resident is in the low care level home | 1 staff member (on-site and on duty) (who may be a person engaged for complying with the requirement specified in item 1) |
| 3. | From 6 p.m. on a day to 7 a.m. on the next day | Both of the following staff members (who may be persons engaged for complying with the requirement specified in item 1)—

(a) 1 staff member on-site (whether or not on duty);

(b) 1 staff member on call (whether or not on-site) |

6. Certain staffing requirements must be complied with during specific hours approved by Director

- (1) If, in relation to a residential care home for PWDs, this Schedule requires at least a certain number of staff members during a certain number of hours within the specified period on every day (**requirement**), the requirement must be complied with during a specific period of, or specific periods totalling, that number of hours (**specific hours**) on

every day as approved by the Director under this section in relation to the residential care home.

- (2) For the requirement, the operator of the residential care home—
 - (a) must apply to the Director for approval of the specific hours proposed by the operator; and
 - (b) may propose in the application different specific hours for different days.
- (3) The application must—
 - (a) be made in the form and manner specified by the Director; and
 - (b) contain the information specified by the Director.
- (4) The Director may approve the specific hours proposed by the operator if satisfied that the proposal is appropriate having regard to all relevant circumstances, including—
 - (a) the schedule of activities of the residents of the residential care home; and
 - (b) the rest hours of the residents of the residential care home.”.

106. Schedule 1 amended (minimum staffing requirements)

- (1) Schedule 1, section 3, Table 1—

Repeal item 1

Substitute

-
- “1. 8 hours within the specified period
- (a) if the high care level home has not more than 30 residents—
 - (i) 1 nurse (on duty); or
 - (ii) 1 health worker (on duty);
 - (b) if the high care level home has more than 30, but not more than 60, residents—
 - (i) 1 nurse (on duty); or
 - (ii) 2 health workers (on duty); or
 - (c) if the high care level home has more than 60 residents—
 - (i) for the first 60 residents—1 nurse (on duty); and
 - (ii) for every 30 residents after the first 60 residents—1 health worker (on duty), and for this purpose, 1 nurse (on duty) is considered equivalent to 2 health workers (on duty)

1A. 5 hours (other than the 8 hours mentioned in item 1) within the specified period

1 health worker (on duty) for every 30 residents, and for this purpose, 1 nurse (on duty) is considered equivalent to 2 health workers (on duty)”.

(2) Schedule 1, section 3, Table 1—

Repeal item 1

Substitute

- “1. 8 hours within the specified period
- (a) if the high care level home has not more than 90 residents—
 - (i) 1 nurse and 1 health worker (both of them are on duty); or
 - (ii) 2 nurses (on duty); or
 - (b) if the high care level home has more than 90 residents—
 - (i) for the first 60 residents—1 nurse (on duty); and

- (ii) for every 30 residents after the first 60 residents— 1 health worker (on duty), and for this purpose, 1 nurse (on duty) is considered equivalent to 2 health workers (on duty)”.

107. Schedule 2 added
After Schedule 1—
Add

“Schedule 2

[ss. 2 & 37]

Fees

Column 1 Item	Column 2 Matter	Column 3 Fee
1.	Registration as a registered home manager under section 3A	\$345
2.	Renewal of a registration as a registered home manager under section 3E	\$235

Residential Care Homes Legislation (Miscellaneous Amendments) Bill 2022

Part 5

Clause 107

C1079

Column 1 Item	Column 2 Matter	Column 3 Fee
3.	Registration as a registered home manager (provisional) under section 3M	\$345
4.	Registration as a registered health worker under section 6	\$245
5.	Renewal of a registration as a registered health worker under section 7A	\$190” .

Part 6

Consequential Amendments

Division 1—Amendments to Waterworks Ordinance (Cap. 102)

108. Section 15B amended (power of entry into non-domestic premises and power to question etc.)

(1) Section 15B(9), definition of *home for elderly persons*—

Repeal

“section 2”

Substitute

“section 2(1)”.

(2) Section 15B(9), definition of *home for persons with disabilities*—

Repeal

“section 2”

Substitute

“section 2(1)”.

Division 2—Amendment to Inland Revenue Ordinance (Cap. 112)

109. Section 26D amended (elderly residential care expenses)

Section 26D(5), definition of *residential care home*—

Repeal paragraph (b).

**Division 3—Amendments to Building (Planning) Regulations
(Cap. 123 sub. leg. F)**

110. Regulation 49B amended (cinemas)

- (1) Regulation 49B(6), definition of *home for elderly persons*—

Repeal

“section 2”

Substitute

“section 2(1)”.

- (2) Regulation 49B(6), definition of *home for persons with disabilities*—

Repeal

“section 2”

Substitute

“section 2(1)”.

**Division 4—Amendments to Registration of Persons
(Application for New Identity Cards) Order 2018 (Cap. 177
sub. leg. J)**

111. Section 2 amended (interpretation)

- (1) Section 2, definition of *residential care home*, paragraph (a)—

Repeal

everything after “licence”

Substitute

“as defined by section 2(1) of the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459) is in force;”.

- (2) Section 2, definition of *residential care home*, paragraph (b)—

Repeal

everything after “by”

Substitute

“section 2(1) of the Residential Care Homes (Persons with Disabilities) Ordinance (Cap. 613) is in force; or”.

**Division 5—Amendments to Smoking (Public Health)
Ordinance (Cap. 371)**

112. Section 2 amended (interpretation)

- (1) Section 2(1), definition of *residential care home*, paragraph (a)—

Repeal

“section 2”

Substitute

“section 2(1)”.

- (2) Section 2(1), definition of *residential care home*, paragraph (b)—

Repeal

“section 2”

Substitute

“section 2(1)”.

Division 6—Amendment to Administrative Appeals Board Ordinance (Cap. 442)

113. Schedule amended

The Schedule, item 69, column 3—

Repeal

“7”.

Division 7—Amendments to Bedspace Apartments Ordinance (Cap. 447)

114. Section 3 amended (application)

(1) Section 3(4), definition of *home for elderly persons*—

Repeal

“section 2”

Substitute

“section 2(1)”.

(2) Section 3(4), definition of *home for persons with disabilities*—

Repeal

“section 2”

Substitute

“section 2(1)”.

Division 8—Amendments to Fire Safety (Commercial Premises) Ordinance (Cap. 502)

115. Section 3 amended (interpretation)

(1) Section 3(1), definition of *home for elderly persons*—

Repeal

“section 2”

Substitute

“section 2(1)”.

- (2) Section 3(1), definition of *home for persons with disabilities*—

Repeal

“section 2”

Substitute

“section 2(1)”.

**Division 9—Amendments to Fire Safety (Buildings)
Ordinance (Cap. 572)**

116. Section 3 amended (interpretation)

- (1) Section 3(1), definition of *home for elderly persons*—

Repeal

“section 2”

Substitute

“section 2(1)”.

- (2) Section 3(1), definition of *home for persons with disabilities*—

Repeal

“section 2”

Substitute

“section 2(1)”.

**Division 10—Amendment to Electronic Health Record
Sharing System Ordinance (Cap. 625)**

117. Section 19 amended (application by healthcare providers for registration)

Section 19(5)(d)—

Repeal

everything after “holds a” and before “of the”

Substitute

“licence issued under section 8(2)(a)”.

**Division 11—Amendment to Private Healthcare Facilities
Ordinance (Cap. 633)**

**118. Schedule 2 amended (premises excluded from definition of
hospital)**

Schedule 2, item 1—

Repeal

“or a certificate of exemption”.

Explanatory Memorandum

The main object of this Bill is to amend the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459) (*Cap. 459*), the Residential Care Homes (Persons with Disabilities) Ordinance (Cap. 613) (*Cap. 613*) and their subsidiary legislation to—

- (a) enhance the accountability of operators of residential care homes for the elderly and residential care homes for persons with disabilities;
- (b) abolish the certificate of exemption regime for residential care homes for the elderly;
- (c) provide for the registration of home managers and the renewal of registration of health workers;
- (d) raise the minimum staffing requirements;
- (e) increase the minimum area of floor space per resident;
- (f) provide for the administration of medicine, the use of restraints and the protection of residents' dignity and privacy;
- (g) increase the penalties for certain offences; and
- (h) set out the deadline for prosecuting offences.

2. The Bill contains 6 Parts.

Part 1—Preliminary

3. Clause 1 sets out the short title and provides for commencement.

Part 2—Amendments to Cap. 459

4. Clause 3 amends section 2 of Cap. 459 to add several definitions and an interpretive provision.
5. Clause 4 amends section 3 of Cap. 459 so that Cap. 459 and its subsidiary legislation do not apply to treatment and rehabilitation centres for drug dependent persons. Clause 4 also makes clear that an order of the Director of Social Welfare (*Director*) to exclude certain residential care homes for the elderly from the application of Cap. 459 and its subsidiary legislation is subsidiary legislation.
6. Clause 5 amends section 6 of Cap. 459. The main purpose is to increase the fine for the offence of operating unlicensed residential care homes for the elderly to \$1,000,000.
7. Clause 7 repeals Part 3 of Cap. 459 to abolish the certificate of exemption regime for residential care homes for the elderly. Certain consequential amendments are made by clauses 3, 5, 9, 15, 18, 20, 21, 25, 56 and 57.
8. Clause 10 adds a new section 8A to Cap. 459 to require the Director to have regard to all relevant matters when considering whether a licence applicant is a fit and proper person to operate a residential care home for the elderly. Some specific matters to be considered are set out in the new Schedule 1 to Cap. 459 (added by clause 22).
9. Clause 14 adds new Divisions 2 and 3 to Part 4 of Cap. 459 to introduce a responsible person requirement and certain reporting requirements.
10. The new Division 2 of Part 4 of Cap. 459—

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- (a) requires a licence applicant or the operator of a residential care home for the elderly to propose a person to be the responsible person of the residential care home;
 - (b) sets out the duties of a responsible person;
 - (c) requires the Director to have regard to all relevant matters when considering whether a person is a fit and proper person to perform the duties of a responsible person (with specific matters to be considered set out in the new Schedule 2 to Cap. 459 added by clause 22); and
 - (d) deals with the change of a responsible person in different circumstances.
11. The new Division 3 of Part 4 of Cap. 459 requires the operator of a residential care home for the elderly to report to the Director if certain events relating to the operator or the responsible person of the residential care home occur. Most of those events are relevant to whether the operator or the responsible person is a fit and proper person.
12. A failure to comply with the new Division 2 or 3 is a ground on which the Director may refuse to issue, refuse to renew, cancel, suspend or vary a condition of a licence in respect of a residential care home for the elderly (see clauses 9 and 12 that amend sections 8 and 10 of Cap. 459 respectively).

13. Clause 19 adds new sections 21A, 21B and 21C to Cap. 459. The new section 21A provides for the criminal liability of responsible persons. The new section 21B provides for the criminal liability of directors, partners, and persons concerned in the management of sole proprietorships, bodies corporate and partnerships. The new section 21C sets out the deadline for prosecuting offences.
14. Clause 20 amends section 23 of Cap. 459 to empower the Secretary for Labour and Welfare to provide for the duties and responsibilities of responsible persons by regulation.

Part 3—Amendments to Residential Care Homes (Elderly Persons) Regulation (Cap. 459 sub. leg. A) (Cap. 459A)

15. Clause 24 amends section 2 of Cap. 459A to amend, repeal and add certain definitions.
16. Clause 26 adds a new Part IIA to Cap. 459A to introduce a registration system for home managers. There are 2 types of registration, namely registration as registered home managers and registration as registered home managers (provisional). The former is subject to higher qualification requirements. It enjoys a longer validity period and is renewable.
17. The new Part IIA of Cap. 459A contains 4 Divisions. Division 1 deals with matters relating to registered home managers, such as the application, registration requirements, validity period, cancellation and appeal. Division 2 covers similar matters for registered home managers (provisional). Division 3 requires registered home managers and registered home managers (provisional) to report to the Director if certain events relating to the managers occur. Division 4 provides for the keeping and inspection of the register of home managers.

18. Clauses 27 to 35 amend Part III of Cap. 459A, which relates to the registration of health workers. Currently, a registration as a health worker does not expire. The amended Part III provides for the validity period of such a registration and the renewal mechanism. It also requires registered health workers to report to the Director if certain events relating to the health workers occur and provides for the transitional arrangements.
19. Clause 36 amends section 11 of Cap. 459A. The main purpose is to require the operator of a residential care home for the elderly to employ a registered home manager or registered home manager (provisional) as the home manager of the residential care home.
20. Clause 38 adds a new section 14A to Cap. 459A to require operators of residential care homes for the elderly to ensure that certain information is contained in the advertisements published by or on behalf of the operators for promoting the residential care homes. A contravention of that requirement is an offence punishable by a fine at level 5.
21. Clause 39 adds a new section 14B to Cap. 459A to make clear who are to perform the duties of home managers under Part V of Cap. 459A.
22. Clause 41 amends section 22 of Cap. 459A to increase the minimum area of floor space per resident and to provide for the transitional arrangements.
23. Clause 44 replaces the existing section 33 of Cap. 459A to regulate the administration of medicine.

24. Clause 45 adds new sections 33A and 33B to Cap. 459A to provide for the use of restraints and for the protection of residents' dignity and privacy when providing personal care services or performing nursing care procedures.
25. Clauses 47 and 48 respectively amend sections 36 and 37 of Cap. 459A to increase the fines for the offences under Cap. 459A to level 5.
26. Clause 49 replaces the existing section 38 of Cap. 459A to provide for the fees payable for various matters. The fees are specified in the new Schedule 3 to Cap. 459A (added by clause 53).
27. Clauses 50 and 51 replace the existing Schedule 1 to Cap. 459A to raise, by phases, the minimum staffing requirements for residential care homes for the elderly (other than nursing homes).

Part 4—Amendments to Cap. 613

28. Clause 55 amends section 2 of Cap. 613 to amend a definition and add several definitions and an interpretive provision.
29. Clause 56 amends section 4 of Cap. 613. The main purpose is to increase the fine for the offence of operating unlicensed residential care homes for persons with disabilities (*PWDs*) to \$1,000,000.

30. Clause 60 adds a new section 7A to Cap. 613 to require the Director to have regard to all relevant matters when considering whether a licence applicant is a fit and proper person to operate a residential care home for PWDs. Some specific matters to be considered are set out in the new Schedule 1 to Cap. 613 (added by clause 74).
31. Clause 64 adds new Divisions 2 and 3 to Part 3 of Cap. 613 to introduce a responsible person requirement and certain reporting requirements. Those requirements are substantially the same as those introduced under Cap. 459 (see paragraphs 9 to 12 above).
32. Clause 71 adds new sections 22A, 22B and 22C to Cap. 613. The new section 22A provides for the criminal liability of responsible persons. The new section 22B provides for the criminal liability of directors, partners, and persons concerned in the management of sole proprietorships, bodies corporate and partnerships. The new section 22C sets out the deadline for prosecuting offences.
33. Clause 72 amends section 24 of Cap. 613 to empower the Secretary for Labour and Welfare to provide for the duties and responsibilities of responsible persons by regulation.

Part 5—Amendments to Residential Care Homes (Persons with Disabilities) Regulation (Cap. 613 sub. leg. A) (Cap. 613A)

34. Clause 75 amends section 2 of Cap. 613A to amend, repeal and add certain definitions.

35. Clause 77 adds a new Part 2A to Cap. 613A to introduce a registration system for home managers. The registration system is substantially the same as the one introduced under Cap. 459A (see paragraphs 16 and 17 above).
36. Clauses 78 to 86 amend Part 3 of Cap. 613A, which relates to the registration of health workers. Similar to the amended Part III of Cap. 459A, the amended Part 3 of Cap. 613A provides for the validity period of a registration as a registered health worker, the renewal mechanism, reporting requirements and transitional arrangements (see paragraph 18 above).
37. Clause 87 amends section 11 of Cap. 613A. The main purpose is to require the operator of a residential care home for PWDs to employ a registered home manager or registered home manager (provisional) as the home manager of the residential care home. Clause 87 also increases the fine for the offences under section 11 to level 5.
38. Clauses 88 to 91 amend sections 12 to 15 of Cap. 613A to increase the fines for the offences under those sections to level 5.
39. Clause 92 adds a new section 15A to Cap. 613A to make clear who are to perform the duties of home managers under Part 5 of Cap. 613A.
40. Clauses 93 to 96 and 100 amend sections 16 to 19 and 32 of Cap. 613A to increase the fines for the offences under those sections to level 5.
41. Clause 97 amends section 23 of Cap. 613A to increase the minimum area of floor space per resident and to provide for the transitional arrangements.

42. Clause 101 replaces the existing section 34 of Cap. 613A to regulate the administration of medicine.
43. Clause 102 adds new sections 34A and 34B to Cap. 613A to provide for the use of restraints and for the protection of residents' dignity and privacy when providing personal care services or performing nursing care procedures.
44. Clause 104 replaces the existing section 37 of Cap. 613A to provide for the fees payable for various matters. The fees are specified in the new Schedule 2 to Cap. 613A (added by clause 107).
45. Clauses 105 and 106 replace the existing Schedule to Cap. 613A to raise, by phases, the minimum staffing requirements for residential care homes for PWDs.

Part 6—Consequential Amendments

46. Clauses 109, 111, 113, 117 and 118 contain amendments to other enactments consequential to the abolition of the certificate of exemption regime for residential care homes for the elderly.