

**Reprint  
as at 3 December 2007**



**Education (Hostels) Regulations  
2005**

(SR 2005/332)

Silvia Cartwright, Governor-General

**Order in Council**

At Wellington this 12th day of December 2005

Present:

The Right Hon Helen Clark presiding in Council

Pursuant to sections 144B and 144C(1) of the Education Act 1989, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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**Note**

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

**These regulations are administered by the Ministry of Education.**

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## Regulations

- 1 Title**  
These regulations are the Education (Hostels) Regulations 2005.
- 2 Commencement**  
These regulations come into force on 1 March 2006.

### Part 1 Preliminary provisions

- 3 Purpose of these regulations**  
The purpose of these regulations is, in accordance with section 144B of the Act, to help ensure the safety of students who board at hostels.
- 4 Interpretation**  
In these regulations, unless the context otherwise requires,—  
**Act** means the Education Act 1989  
**adult** means a person who is at least 18 years old  
**authority** means the licensing authority, who is the chief executive of the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of Parts 1 to 3 and 11 of the Act  
**Board** has the meaning given to it by section 2(1) of the Act  
**boarder**, in relation to a hostel, means a student accommodated in the hostel  
**Chief Review Officer** has the meaning given to it by section 2(1) of the Act (that is, the chief executive of the Education Review Office)  
**crime involving dishonesty** has the meaning given to it by section 2(1) of the Crimes Act 1961  
**harm**—
  - (a) means illness, injury, or both; and
  - (b) includes physical or mental harm caused by stress related to the environment at a hostel

**hazard**—

- (a) means an activity, arrangement, circumstance, event, occurrence, phenomenon, process, situation, or substance (whether arising or caused within or outside a hostel) that is an actual or potential cause or source of harm; and
- (b) includes a situation where a person's behaviour (for example, behaviour resulting from physical or mental fatigue, drugs, alcohol, traumatic shock, or another temporary condition that affects a person's behaviour) may be an actual or potential cause or source of harm to the person or another person or both

**hostel**, subject to regulation 5, has the meaning given to it by section 2(1) of the Act (that is, a boarding establishment used mainly or solely for the accommodation of students enrolled at a registered school (as that term is defined in section 2(1) of the Act))

**licence** means a licence granted or renewed under regulation 15

**licensed hostel** means a hostel for which there has been granted or renewed a licence that has not expired or been suspended or cancelled

**licensee**—

- (a) means the holder of a licence; and
- (b) in relation to a licence that has been suspended or cancelled, means the holder of the licence before it was suspended or cancelled; and
- (c) in relation to a licensed hostel, means the holder of a licence for that hostel

**owner**, in relation to a hostel, means the person who is lawfully entitled to occupy, and is operating a hostel at, the hostel's premises

**parent** has the meaning given to it by section 2(1) of the Act (that is, in relation to any person, a person who is the person's mother, father, or guardian)

**premises**, in relation to a hostel, means the hostel's land and buildings

**responsible person**, in relation to a hostel, means a person directly involved in, and primarily responsible for, the boarders' day-to-day care, comfort, health, and safety

**unlicensed hostel** means a hostel for which no licence has been granted or renewed, or for which every licence granted or renewed has expired or been suspended or cancelled.

## **5 Hostels to which these regulations relate**

- (1) These regulations relate to a hostel if, and only if,—
  - (a) the hostel is used for the accommodation of 5 or more students of whom none is in any way a family member of, or related to, the owner; and
  - (b) each student's accommodation is provided for valuable consideration and for 1 or more periods each of which is longer than 3 consecutive nights.
- (2) However, these regulations do not relate to a hostel being used, for a period of up to 3 months, or for a longer period approved by the authority, mainly or solely for the accommodation of students (whether under a plan required by regulation 48(b) or not) because of an emergency.

## **6 Giving of notices**

- (1) A notice required by these regulations to be given to a person (for example, the authority) is sufficiently given if it is—
  - (a) delivered personally to the person; or
  - (b) delivered to the person at the person's usual or last known place of residence or business; or
  - (c) sent by fax or email to the person's fax number or email address; or
  - (d) sent by mail to the postal address of the person's usual or last known place of residence or business.
- (2) If a notice is, in accordance with subclause (1)(c), given by sending it to a fax number or to an email address, the notice is given at the time it is received by the relevant fax or email system.
- (3) If a notice is, in accordance with subclause (1)(d), given by sending it by mail to a postal address, the notice is given on the earlier of—

- (a) the fifth working day after the day on which it is sent by mail; and
- (b) the day on which it is received.

## **Part 2**

### **Licensing for hostels**

#### *Prohibitions related to unlicensed hostels*

**7 Students prohibited from boarding at unlicensed hostels**

No student may board at an unlicensed hostel.

**8 Payment of bursaries and government subsidies in respect of boarding at unlicensed hostels prohibited**

No boarding bursary, and no government subsidy relating to the cost of boarding at a hostel, may be paid in respect of a student boarding at an unlicensed hostel.

#### *Applications for licences*

**9 Who may apply and how**

- (1) An application for a licence for a hostel must be made—
  - (a) by or on behalf of the hostel's owner; and
  - (b) on a form provided for the purpose by the authority.
- (2) The application must be lodged with the authority.

**10 Floor plan and site plan required**

An application for a licence for a hostel must include or be accompanied by—

- (a) a floor plan (drawn to scale) of each of the hostel's buildings that indicates clearly the uses to which different parts of each of the hostel's buildings are put; and
- (b) a site plan (drawn to scale) of the hostel's premises that indicates clearly the uses to which different parts of the hostel's land and buildings are put.

**11 Other information required**

- (1) An application for a licence for a hostel must include or be accompanied by detailed information explaining the general nature of the hostel's operations and the maximum number,

age range, sex, and any special needs of students who are to be accommodated at the hostel.

- (2) The detailed information referred to in subclause (1) must also explain how and why the owner considers that—
- (a) the hostel's premises and facilities—
    - (i) are suitable for use as those of a hostel; and
    - (ii) comply with the minimum standards for hostel premises and facilities in Part 3; and
  - (b) the management of the hostel complies with Part 4; and
  - (c) the owner is a fit and proper person to hold a licence, taking into account all relevant matters (for example, those in regulation 13) in relation to the individual concerned or, if the owner is a body corporate, every director, and every person concerned in the management, of the body corporate.

**12 Authority may rely on review by Chief Review Officer**

In determining under regulation 15 whether to grant or renew a licence, the authority—

- (a) may receive a relevant review completed by the Chief Review Officer within 3 years before the date of the application for the licence or renewal; and
- (b) may regard that review (together with any or all other information received) as helping it to be satisfied of the matters in regulation 11(2)(a) or (b) or both.

**13 Relevant matters for regulation 11(2)(c)**

The matters referred to in regulation 11(2)(c) (and in regulations 15(1)(c) and 27(2)) are as follows:

- (a) any previous cancellation of a licence involving 1 or more of the same individuals as a (or the) licensee or, if the licensee is a body corporate, as a director, or a person concerned in the management, of the licensee; and
- (b) any conviction for any offence against these regulations, any crime involving dishonesty, any offence involving harm to children or violence, or any sexual offence; and

- (c) any history of mental illness or serious behavioural problems; and
- (d) any adjudication of bankruptcy under the Insolvency Act 2006, or prohibition from being a director or promoter of, or being concerned or taking part in the management of, a company under any of sections 382, 383, and 385 of the Companies Act 1993.

Regulation 13(d): amended, on 3 December 2007, by section 445 of the Insolvency Act 2006 (2006 No 55).

#### **14 Statutory declaration required**

An application for a licence, or for renewal of a licence, for a hostel, and every written notice required by regulation 27, must be accompanied by a statutory declaration made by the person completing the application form, or the notice, and declaring—

- (a) that he or she either is, or is authorised to make the application on behalf of, the owner of the hostel; and
- (b) whether, after having made all reasonable inquiries, and to the best of his or her knowledge and belief, the application or notice includes or is accompanied by all relevant information known to the owner; and
- (c) whether all information included in or accompanying the application or notice is, after having made all reasonable inquiries, and to the best of his or her knowledge and belief, in all respects true and correct.

#### *Grant or renewal of licences*

#### **15 Authority may grant or renew licences**

- (1) The authority may, on an application for the purpose, grant or renew a licence for a hostel if satisfied by information it has received (which may include a review referred to in regulation 12) that—
  - (a) the hostel's premises and facilities—
    - (i) are suitable for use as those of a hostel; and
    - (ii) comply with the minimum standards for hostel premises and facilities in Part 3; and
  - (b) the management of the hostel complies with Part 4; and

- (c) the owner is a fit and proper person to hold a licence, taking into account all relevant matters (for example, those in regulation 13) in relation to the individual concerned or, if the owner is a body corporate, every director, and every person concerned in the management, of the body corporate; and
  - (d) any relevant fee under regulation 42 has been paid.
- (2) Renewal of a licence may be with or without amendments (for example, an amendment to the maximum permitted number of boarders in the standard condition in regulation 22).
- (3) A licence granted or renewed under this regulation is subject to—
  - (a) the standard condition in regulation 22; and
  - (b) any special conditions imposed under regulation 23.
- (4) Unless earlier cancelled or renewed, the licence (whether granted or renewed) expires,—
  - (a) if it is renewed under regulation 19 or regulation 20, when it would have expired if it had not been so renewed; and
  - (b) in every other case, with the close of the date that is 3 years after the date on which it is granted or renewed.
- (5) After determining an application for a licence or for renewal of a licence, the authority must ensure that the owner or, as the case requires, the licensee, is given prompt written notice of—
  - (a) the authority's decision to grant or to decline the application; and
  - (b) the authority's reasons for that decision.

**16 Applications in respect of different premises**

- (1) If the application referred to in regulation 15(1) is made in respect of different premises, the authority must determine whether they are premises of the hostel for which a licence or renewed licence is sought, or whether any or all of them are premises of another hostel.
- (2) In making the determination required by subclause (1), the authority must take into account the proximity of the land and buildings concerned, and any relevant sharing of facilities, management, operational funding, and staff.

*Applications for renewal of licences***17 Who may apply and how**

An application for renewal of a licence must—

- (a) be made by or on behalf of the licensee; and
- (b) be made on a form provided for the purpose by the authority; and
- (c) include or be accompanied by all other supporting information required by that form; and
- (d) be lodged with the authority no later than 20 working days before the time at which the licence will expire under regulation 15(4) unless earlier cancelled or renewed and, if the application is one required by regulation 20, no later than 20 working days before the change of ownership.

**18 Authority may permit applications to be lodged late**

On an application for the purpose before the deadline in regulation 17(d), the authority may, if it thinks fit, permit an application for renewal of a licence to be lodged with it—

- (a) after the deadline in regulation 17(d); but
- (b) before the time at which the licence will expire under regulation 15(4) unless earlier cancelled or renewed and, if the application is one required by regulation 20, before the change of ownership.

**19 Renewal required if premises or operations to change**

The licensee of a licensed hostel must apply under regulation 17 to the authority for renewal of the hostel's licence under regulation 15 (with amendments, if appropriate) if the licensee wants to make a change to the hostel's premises or operations (for example, a substantial alteration to the hostel's buildings, or a change from being a boys' hostel to being a girls' hostel or a co-educational hostel) that would—

- (a) affect, or make inaccurate in any way, the conditions of, or any other matter stated in, the licence; or
- (b) result in the hostel's premises or operations being, in some particular respect, significantly different from the hostel's premises or operations when the licence was granted or renewed.

**20 Renewal required if owner of hostel to change**

If the owner of a licensed hostel is to change, the licensee must apply under regulation 17 to the authority for renewal (with amendments) of the hostel's licence under regulation 15 in order to transfer the licence, from the time of the change, to the hostel's new owner.

*Extent, content, form, and conditions of licences*

**21 Extent, content, and form of licence**

- (1) Every licence relates only to the licensee named in it and to the premises of the hostel for which it was granted or renewed.
- (2) Every licence must state—
  - (a) the licensee's full name; and
  - (b) the street address, and other identifying details, of the premises of the hostel for which it was granted or renewed; and
  - (c) the date on which it was granted or renewed; and
  - (d) the date on the close of which the licence will expire under regulation 15(4) unless earlier cancelled or renewed; and
  - (e) the standard condition in regulation 22; and
  - (f) any special conditions imposed under regulation 23.
- (3) Licences may state or include any other information, and may be in any form, the authority determines.

**22 Standard condition: maximum number of boarders**

- (1) The standard condition (referred to in regulations 15(3)(a) and 21(2)(e)) of a licence is that the hostel must at no time accommodate more than a specified maximum permitted number of boarders.
- (2) The authority must determine and specify that maximum number of boarders when granting or renewing the licence.

**23 Special conditions**

The special conditions (referred to in regulations 15(3)(b) and 21(2)(f)) of a licence are any special conditions, not inconsistent with the standard condition in regulation 22, that the

authority thinks fit to impose on granting or renewing the licence.

#### **24 Examples of special conditions**

Examples of special conditions that the authority may impose under regulation 23 are special conditions—

- (a) restricting a hostel's operation to specified days of every school week; or
- (b) specifying maximum numbers of boarders of specified classes or descriptions who may be accommodated in the hostel (being maximum numbers not inconsistent with the maximum number, in the standard condition in regulation 22, of boarders of all classes and descriptions who may be accommodated in the hostel).

#### *Licensee's duties in relation to licence, etc*

#### **25 Display of licence, names of responsible people, etc**

- (1) The licensee must ensure that the licence is so displayed at the hostel as to be able to be inspected easily by visitors.
- (2) The licensee must display next to the licence—
  - (a) the full name of each responsible person; and
  - (b) a notice that complies with subclause (3).
- (3) A notice complies with this subclause if the notice—
  - (a) explains the procedure established by Part 5 for the handling of complaints, made by a boarder, boarder's parent, or Board, about non-compliance—
    - (i) with these regulations, or some or all of the conditions of the licence, or both; and
    - (ii) relating to or involving the hostel; and
  - (b) explains the licensee's duties under regulation 26.

#### **26 Inspection or copying of regulations and licence**

The licensee must, on a request for the purpose and at times reasonable and convenient to the licensee, make available to a boarder, a boarder's parent, or a Board, for inspection or copying or both, a copy of these regulations and a copy of the licence.

**27 Notice of new directors, etc, of body corporate licensee**

- (1) A licensee that is a body corporate must give the authority prompt written notice of every change, after the granting or the latest renewal of the licence, in the directors, or in the persons concerned in the management, of the body corporate.
- (2) The licensee must explain in the notice how and why the owner considers that the owner remains a fit and proper person to hold a licence, taking into account all relevant matters (for example, those in regulation 13) in relation to every new director, and every new person concerned in the management, of the body corporate.
- (3) The licensee must include in the notice the declaration required by regulation 14.

*Formal directions to licensee to eliminate  
non-compliance*

**28 Formal direction**

The authority may, by written notice specifying the relevant non-compliance, give a licensee of a licensed hostel a formal direction to eliminate that specified non-compliance if satisfied that any or all of the following apply:

- (a) the hostel does not comply with the minimum standards for hostel premises and facilities in Part 3;
- (b) the hostel does not comply with a condition subject to which the licence was granted;
- (c) the management of the hostel does not comply with Part 4;
- (d) the licensee or hostel does not comply with any other provision or provisions of these regulations.

**29 Deadline for eliminating non-compliance**

- (1) A formal direction under regulation 28 must also specify—
  - (a) the deadline by which the specified non-compliance must be eliminated; and
  - (b) that a failure to eliminate the specified non-compliance before that deadline may result in suspension, or in suspension and then cancellation, of the licence.

- (2) The deadline must be one that the authority considers reasonable in the circumstances, but must be no later than—
- (a) 12 months after the day on which the licensee was given the direction; and
  - (b) the time at which the licence will expire under regulation 15(4) unless earlier cancelled or renewed.

**30 Licensee must display formal direction**

As soon as practicable after being given a formal direction under regulation 28, and until it is revoked under regulation 31, the licensee of a licensed hostel must ensure that the direction is displayed at the hostel next to the licence and in a way that ensures that the direction can be inspected easily by visitors.

**31 Revocation of formal direction**

If satisfied that non-compliance specified in a formal direction given to a licensee of a licensed hostel under regulation 28 has been eliminated, the authority must, by written notice to the licensee, revoke the formal direction.

*Suspension and cancellation of licences*

**32 Suspension effected by written notice to licensee**

- (1) The authority must, by written notice to the licensee, suspend the licence of a licensed hostel if satisfied that—
- (a) the licensee has failed to comply with regulation 64(1) (isolation of boarders or members of hostel staff suffering from, or suspected to be suffering from, or exposed to, certain infectious diseases); or
  - (b) it is, for some other reason, contrary to the boarders' interests for the hostel to remain open.
- (2) A suspension under subclause (1) takes effect at the time the notice effecting the suspension is given to the licensee or at any later time specified for the purpose in that notice.
- (3) The authority may, by written notice to the licensee, suspend the licence of a licensed hostel if satisfied that—
- (a) information in, or accompanying, the application for the granting or renewal of the licence was false or misleading in a material particular and the licensee has not, de-

- spite having been given a reasonable opportunity to do so, corrected that information; or
- (b) the licensee has been given a formal direction under regulation 28, but has failed to eliminate the non-compliance specified in the direction by the deadline specified in the direction; or
  - (c) the hostel is no longer under the licensee's control.
- (4) A suspension under subclause (3) takes effect on the day (which must be at least 21 days after the day on which that notice is given) stated in the notice effecting the suspension.

**33 Notice must specify conditions to be complied with**

A notice suspending a licence, under regulation 32, must specify—

- (a) the conditions the licensee must comply with to have the suspension revoked; and
- (b) the deadline for complying with those conditions (which must be one that the authority considers reasonable in the circumstances).

**34 Licensee's duties when suspension takes effect**

When a suspension under regulation 32 takes effect, the licensee must immediately—

- (a) advise the boarders' parents of the suspension; and
- (b) implement the plan required by regulation 48(b) for boarders' evacuation and care in emergencies; and
- (c) take all reasonably practicable steps to help the boarders find adequate alternative accommodation.

**35 Suspended licence must be returned to authority**

A person must return a licence to the authority if the person has custody of the licence and is aware that it has been suspended under regulation 32.

**36 Revocation of suspension**

The authority must revoke the suspension of a licence, and must return it to the licensee (if the authority has custody of it), if—

- (a) the licence is suspended under regulation 32; and
- (b) the conditions specified under regulation 33(a) have been complied with before the deadline specified under regulation 33(b); and
- (c) the licence has not expired, and was not cancelled, before that deadline.

### **37 Cancellation**

- (1) The authority may, by written notice to the licensee, cancel the licence of a licensed hostel if satisfied that—
  - (a) information in, or accompanying, the application for the granting or renewal of the licence was false or misleading in a material particular; or
  - (b) the licensee or the hostel's owner—
    - (i) has harmed (whether physically, emotionally, or sexually) or ill-treated a boarder; or
    - (ii) has, in directing or guiding a boarder, subjected him or her to discrimination (including favouritism or antipathy), solitary confinement, physical restraint contrary to hostel policy, or deprivation of food, drink, warmth, shelter, privacy, or protection; or
    - (iii) has otherwise abused, harassed, or seriously neglected a boarder; or
  - (c) boarders were accommodated at the hostel while the licence was suspended under regulation 32; or
  - (d) the licence is suspended under regulation 32 and the conditions specified under regulation 33(a) were not complied with before the deadline specified under regulation 33(b); or
  - (e) the licensee has ceased to be a fit and proper person to hold a licence, taking into account all relevant matters (for example, those in regulation 38) in relation to the individual concerned or, if the owner is a body corporate, every director, and every person concerned in the management, of the body corporate.
- (2) A licence cannot be cancelled under subclause (1) unless the authority has—

- (a) taken all reasonably practicable steps to advise the licensee that the authority intends to cancel the licence; and
  - (b) taken into account all representations (if any) received from the licensee within a reasonable time after the licensee was advised under paragraph (a) that the authority intends to cancel the licence.
- (3) The authority must, by written notice to the licensee, cancel the licence of a licensed hostel if requested to do so by the licensee or if satisfied that the hostel has ceased operations and appears unlikely to operate again under the licensee.
- (4) A cancellation under this regulation takes effect when the notice effecting the cancellation is given to the licensee or at any later time specified for the purpose in that notice.

**38 Relevant matters for regulation 37(1)(e)**

The matters referred to in regulation 37(1)(e) are as follows:

- (a) any previous cancellation of a licence involving 1 or more of the same individuals as a (or the) licensee or, if the licensee is a body corporate, as a director, or a person concerned in the management, of the licensee; and
- (b) any conviction for any offence against these regulations, any crime involving dishonesty, any offence involving harm to children or violence, or any sexual offence; and
- (c) any mental illness or serious behavioural problems; and
- (d) any adjudication of bankruptcy under the Insolvency Act 2006, or prohibition from being a director or promoter of, or being concerned or taking part in the management of, a company under any of sections 382, 383, and 385 of the Companies Act 1993.

Regulation 38(d): amended, on 3 December 2007, by section 445 of the Insolvency Act 2006 (2006 No 55).

**39 Licensee's duties when cancellation takes effect**

When a cancellation under regulation 37 takes effect, the licensee must immediately—

- (a) advise the boarders' parents of the cancellation; and

- (b) implement the plan required by regulation 48(b) for boarders' evacuation and care in emergencies; and
- (c) take all reasonably practicable steps to help the boarders find adequate alternative accommodation.

**40 Cancelled licence must be returned to authority**

A person must return a licence to the authority if the person has custody of the licence and is aware that it has been cancelled under regulation 37.

*Replacement licences*

**41 Authority may grant replacement licence**

- (1) The licensee must apply for a replacement licence, and the authority may, after receiving the licensee's application, grant a replacement licence if satisfied that a licence contains an error or is lost, stolen, defaced, or destroyed.
- (2) A replacement licence under this regulation—
  - (a) is the same as the licence that it replaces except in so far as the authority corrects errors in that licence; and
  - (b) is deemed to have been granted under regulation 15 at the same time as the licence it replaces.

*Fees and refunds*

**42 Fees**

- (1) The fees specified in the second column of the Schedule are payable to the authority for the applications for, or renewals of, licences specified opposite those fees in the first column of the Schedule.
- (2) Those fees are inclusive of goods and services tax.

**43 Refunds of fees**

- (1) This subclause applies to a licensee's licence if—
  - (a) a fee prescribed by regulation 42 for the granting or renewal of the licence was paid to the authority; and
  - (b) the licence was granted or renewed; and
  - (c) the licence was then cancelled under regulation 37.

- (2) If subclause (1) applies to a licensee's licence, the authority must pay the licensee promptly the following refund:
  - (a) two-thirds of the fee if the expiry date of the licence is at least 2 years after the date of cancellation; or
  - (b) one-third of the fee if the expiry date of the licence is at least 1 year, but not more than 2 years, after the date of cancellation.
- (3) No other refunds are payable under these regulations.

### **Part 3**

#### **Minimum standards for hostel premises and facilities**

##### **44 Provision of necessary spaces, facilities, and equipment**

The owner of a hostel must, having regard to the number, age range, and sex of the boarders, provide all spaces, facilities, and equipment that are reasonably necessary for—

- (a) boarders' indoor and outdoor recreation (whether as individuals or in groups); and
- (b) quiet activities (for example, study); and
- (c) food preparation; and
- (d) eating; and
- (e) sleeping; and
- (f) toileting, bathing, or otherwise attending to personal hygiene and changing of clothing, in reasonable privacy; and
- (g) laundering of clothing; and
- (h) secure storage of the boarders' personal effects; and
- (i) boarders to meet, or to communicate privately (in writing or by telephone, email, or other means), with parents and other people.

##### **45 Lighting, heating, and ventilation**

The owner of a hostel must ensure that, so far as necessary to ensure boarders' safety,—

- (a) the hostel's premises are lit by natural and artificial light; and
- (b) its buildings are heated and ventilated.

- 46 Laundering of sheets, bath towels, etc**  
The owner of a hostel must ensure that there is in place at the hostel a system for ensuring the hygienic laundering of boarders' sheets and bath towels, and of other cloths, linen, or towels used in or as part of their bedding or bathing.
- 47 Maintenance and safe use of buildings and facilities**  
The owner of a hostel must take all reasonably practicable steps to ensure that the hostel's buildings and facilities are—
- (a) kept in good repair; and
  - (b) not used in ways that endanger boarders' safety.
- 48 Fires, earthquakes, and other emergencies**  
The owner of a hostel must ensure that—
- (a) a telephone is available for emergency calls to and from the hostel; and
  - (b) a plan for the boarders' evacuation, care, and temporary accommodation (if required) in emergencies (whether they result in hostel buildings being unsafe or uninhabitable or not) is provided and maintained, and the evacuation procedures are prominently displayed on the hostel's premises; and
  - (c) all hostel staff are trained in fire and earthquake drills, and in other emergency procedures; and
  - (d) regular evacuation drills are carried out.
- 49 Evacuation plan to include fire evacuation scheme**  
The plan required by regulation 48(b) must include an evacuation scheme that—
- (a) is designed to enable evacuation from the scene of a fire safely and within a reasonable time; and
  - (b) satisfies all requirements (if any) imposed by or under the Fire Service Act 1975 for a fire evacuation scheme for the building or buildings concerned.
- 50 Safety and hygiene of premises, equipment, etc**  
The owner of a hostel must ensure that the hostel's premises, and (so far as they are used by or accessible to boarders) its fur-

niture, furnishings, fittings, flooring or other surfaces, equipment, and materials,—

- (a) comply with all applicable New Zealand Standards; and
- (b) are kept safe and hygienic.

**51 Premises to be kept free of hazards**

Every responsible person, every staff member, and the owner of a hostel must ensure that, so far and as soon as is reasonably practicable, hazards to the boarders' safety on the premises are corrected, repaired, otherwise removed, or made inaccessible to the boarders.

**52 First aid**

- (1) The owner of a hostel must ensure that—
  - (a) first-aid equipment and supplies sufficient to meet all reasonably foreseeable first-aid needs of the boarders are provided at the hostel, maintained, and ready for immediate use; and
  - (b) if the boarders are present at a hostel building or on hostel land, at least 1 staff member who holds a current first-aid certificate is available at or on, or reasonably near, the hostel premises.
- (2) Nothing in this regulation limits or affects any duty imposed on an employer by regulations made under the Health and Safety in Employment Act 1992 to take all practicable steps to provide first-aid facilities at every place of work under the control of that employer.
- (3) Subclause (2) does not limit regulation 73.

**Part 4**

**Code of practice relating to management  
of hostels**

**53 Boarders not to be accommodated in unlicensed hostels**

The owner of a hostel must ensure that boarders are not accommodated in the hostel at any time when the hostel is an unlicensed hostel.

**54 Policies and operating procedures**

- (1) The owner of a hostel must ensure that the hostel is managed in accordance with written policies, and written operating procedures, maintained by the owner.
- (2) The general purpose of the policies and procedures must be to help to ensure that the boarders—
  - (a) are supported in a positive learning environment; and
  - (b) are given the opportunity to develop positively within reasonable boundaries; and
  - (c) feel secure and valued; and
  - (d) have ready access to people they can trust and confide in, and are supported in raising problems and issues that are of concern to them; and
  - (e) have ready access to, and a degree of choice about, health and other personal services they may require.
- (3) The owner of a hostel must, on a request for the purpose, make a copy of the policies and procedures available for inspection and copying by a member of the hostel's staff, a boarder, or a parent of a boarder.

**55 Policy on relationships and protection from ill-treatment**

- (1) The policies required by regulation 54 include a policy on hostel relationships (for example, relationships between the boarders, or between them and staff) and the protection of the boarders from ill-treatment.
- (2) The purpose of the policy must be to help to ensure that—
  - (a) every boarder is treated with respect and dignity; and
  - (b) every boarder is given positive guidance promoting appropriate behaviour, having regard to the boarder's stage of development; and
  - (c) every boarder is given positive guidance by the use of praise and encouragement and the avoidance of blame, harsh language, and belittling or degrading responses; and
  - (d) boarders being given direction and guidance are not subjected to any form of discrimination (including favouritism or antipathy), physical ill-treatment, solitary confinement, or deprivation of food, drink, warmth, shelter, privacy, or protection; and

- (e) physical restraint of a boarder is used only in circumstances, and only in accordance with restrictions and conditions, specified in the policy.

**56 Procedure for granting boarders leave of absence**

- (1) The procedures required by regulation 54 include a procedure for granting the boarders leave of absence from the hostel.
- (2) The procedure must specify—
  - (a) how the boarders may apply for and be granted leave of absence from the hostel; and
  - (b) conditions that may apply to leave, including when the permission of a parent is required and the arrangements necessary to enable contact between the boarder and the hostel during leave; and
  - (c) how checks are to be made of the suitability of the places where, and people with whom, each period of leave is to be spent; and
  - (d) steps to be taken if a boarder is identified as missing or absent without leave; and
  - (e) how recreational and other associated activities (such as transport to and from venues) are to be assessed to identify any risks involved, and how arrangements are to be made to manage those risks; and
  - (f) how records of the boarders' absences on leave from the hostel are to be created and maintained, how they are to be created and maintained with an appropriate degree of confidentiality, and the minimum period for which they must be retained.

**57 Review of, and consultation on, policies and procedures**

- (1) The owner of a hostel must, at least once every 3 years, review the policies and procedures required by regulation 54.
- (2) As part of the review, the owner must take all reasonably practicable steps to consult the boarders and their parents on the terms of the policies and procedures.

**58 Abuse, harassment, or serious neglect of boarders**

- (1) This regulation applies to the owner of a hostel who believes on reasonable grounds that a person (whether a member of the hostel's staff or boarder or not)—
- (a) has harmed (whether physically, emotionally, or sexually) or ill-treated a boarder; or
  - (b) has, in directing or guiding a boarder, subjected him or her to discrimination (including favouritism or antipathy), solitary confinement, physical restraint contrary to hostel policy, or deprivation of food, drink, warmth, shelter, privacy, or protection; or
  - (c) has otherwise abused, harassed, or seriously neglected a boarder.
- (2) The owner must ensure that the person does not, so far as practicable, come into contact with the boarder concerned, and must, so far as practicable, require the person to stay off the hostel premises if the owner regards a requirement of that kind as necessary to ensure no boarder is ill-treated.
- (3) The owner must, within 24 hours of forming the belief in subclause (1),—
- (a) give written notice of the matter to at least 1 of the persons or bodies in subclause (4), as well as to any other of them the owner considers appropriate; and
  - (b) advise the authority when, and to whom, the notice required by paragraph (a) was given; and
  - (c) give the authority a copy of that notice.
- (4) The persons or bodies referred to in subclause (3)(a) are the parents of the boarder concerned, the Department of Child, Youth and Family Services, and the New Zealand Police.
- (5) The authority may cancel the licence of a licensed hostel under regulation 37(1)(b) if satisfied that the hostel's owner has abused, harassed, or seriously neglected a boarder.

**59 Records**

The owner of a hostel must ensure that there are created and maintained, for each boarder, records of—

- (a) the boarder's name, date of birth, and home address or addresses; and

- (b) the name and, if it differs from the boarder's address, the home address of all guardians of the boarder; and
- (c) the place at which, or the means by which, at least 1 guardian of the boarder (or a person nominated by a guardian of the boarder) may be reached while the boarder is accommodated at the hostel; and
- (d) particulars of every accident and every illness occurring to or experienced by the boarder while at the hostel, and of any actions taken in response; and
- (e) details of any chronic illness from which the boarder suffers, and of any medication the boarder has to take as a result; and
- (f) details of all medicines of any kind administered by hostel staff to the boarder while at the hostel, the occasions on which they were administered, and by whose authority they were administered; and
- (g) the names and addresses of people who (by direction of a person who has the role of providing day-to-day care for, or custody of, the boarder) should be consulted if the boarder is ill or injured; and
- (h) the names and addresses of the people authorised by a guardian of the boarder to collect the boarder from the hostel and, if applicable, people who, by law,—
  - (i) are entitled to have contact with, or access to, the boarder; or
  - (ii) are forbidden to have contact with, or access to, the boarder, or have an entitlement to have contact with, or access to, the boarder, that is subject to conditions.

**60 Duties related to records**

The owner of a hostel must ensure that the records required by regulation 59 are—

- (a) created and maintained with an appropriate degree of confidentiality; and
- (b) retained until at least 1 year after the boarder to whom they relate ceases to be accommodated at the hostel or, if the owner is a public office as defined in section 4 of the

Public Records Act 2005, until any later time required by that Act; and

- (c) available at any reasonable time for inspection and copying by persons appointed under section 144E of the Act as authorised persons for the purpose of exercising the powers (for example, to enter and inspect hostel premises) in section 144D of the Act.

#### **61 Supervision, staffing, and security**

- (1) The owner of a hostel must ensure that, at all times while boarders are present at the hostel those boarders, or the staff members who supervise those boarders, are supervised by a responsible person.
- (2) The owner of a hostel must ensure that—
  - (a) all permanent staff members are adults; and
  - (b) all permanent staff members, and all people (other than boarders and their parents) who have regular access to the hostel or have unsupervised contact with boarders, are the subject of rigorous suitability checks (including Police vetting); and
  - (c) no staff member has been convicted of a crime involving dishonesty and sentenced for that crime within the preceding 7 years, or has been convicted of any offence involving harm to children or violence, or has been convicted of any sexual offence, or is unfit to be a staff member because of mental illness or serious behavioural problems; and
  - (d) there is substantial supervision of ancillary, contract, temporary, or voluntary staff, and others who visit the hostel occasionally and who have not been the subject of a suitability check; and
  - (e) staff and boarders are encouraged to maintain positive relationships with each other; and
  - (f) security measures are used to prevent unauthorised access to the hostel's premises.
- (3) The owner of a hostel must ensure that the hostel is at all times staffed with a ratio of staff to boarders present at the hostel that ensures the safety of those boarders having regard to—
  - (a) the number of them and their ages and needs; and

- (b) the nature (including the locations and times of day) of their activities; and
  - (c) the training and qualifications of the staff or other adults concerned.
- (4) People must not be counted as staff for the purposes of sub-clause (3) if they—
- (a) have no duties beyond administration, cleaning, food preparation and serving, or maintenance; or
  - (b) are having meal breaks or periods during which they are not in contact with, or accessible to, the boarders.

**62 Supervision of boarders on excursions outside hostel**

The owner of a hostel must, while boarders are taken in the care of the hostel on any excursion or activity outside the hostel, ensure that there are enough members of hostel staff or other adults with the boarders taken outside the hostel to ensure the safety of those boarders having regard to—

- (a) the number of them and their ages and needs; and
- (b) the nature of the excursion or activity (including its location and time of day); and
- (c) the training and qualifications of the staff or other adults concerned.

**63 Food and drink**

The owner of a hostel must ensure that—

- (a) food is served in the hostel at such times, and in such variety, quantity, and quality, as to meet the boarders' nutritional needs; and
- (b) food is, when stored, prepared, and served, free of, and adequately protected against, contamination; and
- (c) an ample supply of potable water is available at all times to the boarders for drinking.

**64 Infectious and other diseases, etc**

(1) The owner of a hostel must take all reasonably practicable steps to ensure that—

- (a) a boarder or member of hostel staff suffering from, or suspected to be suffering from, an infectious disease listed in Schedule 2 of the Health (Infectious and Noti-

- fiable Diseases) Regulations 1966 is excluded from the hostel for the period of isolation shown for that disease in the second column of that schedule or for a lesser period the Medical Officer of Health determines; and
- (b) a boarder or member of hostel staff exposed to an infectious disease listed in Schedule 2 of the Health (Infectious and Notifiable Diseases) Regulations 1966 is excluded from the hostel for the period of isolation shown for that disease in the fourth column of that schedule or for a lesser period the Medical Officer of Health determines.
- (2) The owner of a hostel must give the Medical Officer of Health or an environmental health officer all information that he or she may request concerning cases of infectious disease and contacts with them.
- (3) A responsible person may exclude from a hostel for a reasonable period determined after consultation with a suitably qualified medical practitioner a boarder who is suffering from a disease to which subclause (1) does not apply, or from an ailment, illness, or other condition affecting the boarder's health.
- (4) The owner of a hostel must take all reasonably practicable steps to ensure that—
- (a) every person working in any capacity in the hostel is in good health and not suffering from any infectious disease listed in Schedule 2 of the Health (Infectious and Notifiable Diseases) Regulations 1966; and
- (b) the boarders do not come into contact with a member of hostel staff, or another person on the premises, who is suffering from a disease or condition capable of being passed on to boarders and that is likely to cause them serious harm if passed on to them.

## **65 Protection or promotion of health**

- (1) The owner of a hostel must ensure that the hostel has available an area and facilities suitable for the temporary isolation and care of at least 1 sick boarder.
- (2) In the case of an accident to, or a serious illness of, a boarder occurring or noticed at a hostel in circumstances that seem to call for immediate medical aid, a responsible person must,

without delay, ensure that all reasonably practicable steps are taken to get medical aid and to notify a parent or other appropriate family member of the boarder.

- (3) The owner of a hostel must take all reasonably practicable steps to facilitate access by a boarder, at his or her own expense, to a full range of general health and other support services (including personal counselling) delivered by suitably qualified personnel in a way that protects individual privacy and confidentiality.
- (4) The owner of a hostel must take all reasonably practicable steps to ensure that no member of hostel staff present and performing duties at the hostel, and no boarder present at the hostel, uses, or is affected by, alcohol or any other substance to the extent that it is an actual or potential cause or source of harm to the person or another person or both.

**66 Parents' contact with, or access to, boarders**

- (1) The owner of a hostel must ensure that a boarder's parent can have contact with, or access to, the boarder whenever—
  - (a) the boarder is present at the hostel; and
  - (b) no good reason exists to deny that contact or access.
- (2) Good reason exists under subclause (1) if the parent—
  - (a) is subject to an order of a court that prohibits contact with, or access to, the boarder (either with respect to the boarder generally, or while the boarder is accommodated at the hostel); or
  - (b) is subject to a warning under section 4 of the Trespass Act 1980 to stay off the premises; or
  - (c) is suffering from an infectious disease, or from some other disease, that is contagious and is likely to harm the boarders if passed on to them; or
  - (d) is, in the opinion of a responsible person, under the influence of alcohol or any other substance to the extent that it is an actual or potential cause or source of harm to the parent or another person or both; or
  - (e) is, in the opinion of a responsible person, exhibiting behaviour that is or is likely to be disruptive to the hostel's effective operation.

## **Part 5**

### **Complaints about hostels by students or parents**

#### **67 Who may complain and how**

- (1) A boarder, boarder's parent, or Board may complain to the owner of a hostel about non-compliance—
  - (a) with these regulations (for example, with the minimum standards for hostel premises and facilities in Part 3, or the code of practice relating to the management of hostels in Part 4), or some or all of the conditions of the hostel's licence, or both; and
  - (b) relating to or involving the hostel.
- (2) A complaint to an owner may be made in writing or orally.
- (3) A complaint made orally must be put in writing by the owner as soon as practicable.

#### **68 Procedure for resolving complaints**

- (1) Every owner of a hostel must facilitate the fair, simple, speedy, and efficient resolution of complaints under this Part that relate to or involve the hostel.
- (2) In particular, every owner of a hostel must ensure that—
  - (a) a complaint under this Part and relating to or involving the hostel is, if made orally, put in writing by the owner (as required by regulation 67(3)); and
  - (b) the complaint is (unless earlier resolved to the complainant's satisfaction) acknowledged in writing within 5 working days of receipt; and
  - (c) the complainant is informed of any relevant internal complaints procedures; and
  - (d) the owner's response to the complaint is documented; and
  - (e) the complainant receives a copy of all information held by the owner that is or may be relevant to the complaint; and
  - (f) the owner decides whether the complaint is justified in accordance with regulation 69.

**69 Owner must decide whether complaints justified**

- (1) The owner of a hostel must, within 10 working days of acknowledging a complaint under this Part (as required by regulation 68(2)(b)), decide that—
  - (a) the complaint is or is not justified; or
  - (b) additional time is needed to investigate it.
- (2) After making a decision under subclause (1)(b), the owner must—
  - (a) determine how much additional time is needed; and
  - (b) decide as soon as practicable whether the complaint is justified.
- (3) If the owner determines under subclause (2)(a) that the additional time required to investigate the complaint is more than 20 working days, the owner must inform the complainant as soon as practicable—
  - (a) of the fact of, and reasons for, the determination under subclause (2)(a); and
  - (b) that the owner is required to decide as soon as practicable whether the complaint is justified.

**70 Owner must inform complainant of decision, etc**

- (1) As soon as practicable after the owner decides that a complaint under this Part is or is not justified, the owner must inform the complainant of—
  - (a) the reasons for the owner's decision that the complaint is or is not justified; and
  - (b) any actions the owner proposes to take; and
  - (c) any procedure the owner has in place to enable consideration of an appeal by the complainant against the owner's decision on the complaint; and
  - (d) the role of any relevant external agency that may (depending on the nature of the complaint and resources available at the time) be available to assist the complainant or to investigate the complaint if it is not resolved to the complainant's satisfaction.
- (2) Relevant external agencies referred to in subclause (1)(d) may include the authority, the Chief Review Officer (if the complaint relates to the provision of a safe physical and emotional environment that supports learning for students accom-

modated in the hostel), the Children's Commissioner, the Department of Child, Youth and Family Services, and the New Zealand Police.

## **Part 6**

### **Miscellaneous provisions**

#### *Appeals to District Court*

#### **71 Appeals against authority's decisions or directions**

- (1) A person affected by a decision or direction of the authority under these regulations may, within 14 days after getting notice of the decision or direction, or within any further time the court allows, appeal against the decision or direction to a District Court with civil jurisdiction.
- (2) An appeal under this regulation must be—
  - (a) made by way of originating application in accordance with the District Courts Rules 1992; and
  - (b) filed in the office of the court nearest to the appellant's place of business, employment, or residence.
- (3) For the purposes of hearing and determining the appeal, the court has all the powers vested in it in its civil jurisdiction, and may make any order it thinks fit.
- (4) A decision or direction appealed against cannot be enforced within the appeal period or before the court has reached a decision confirming or amending the decision or direction.

#### *Transitional regulation*

#### **72 Existing hostels deemed licensed for transitional period**

- (1) A hostel is deemed to be a licensed hostel that complies with these regulations, and its owner is deemed to be the hostel's licensee, until its owner is given written notice of the authority's decision to grant or decline the application for a licence for the hostel, if—
  - (a) the hostel was operating immediately before the commencement of these regulations; and
  - (b) an application for a licence for the hostel is made before the date that is 1 year after the date on which these regulations come into force.

- (2) However, subclause (1) does not apply to a hostel if its owner has been required by the authority, by written notice given to the owner, to apply for a licence within a 3-month period specified in the notice, but—
  - (a) has failed to do so; or
  - (b) has submitted within that period an application for a licence that the authority considers does not comply with the requirements of these regulations.
- (3) Despite subclause (1), regulations 32 to 40 (suspension and cancellation of licences) apply to the owner of a hostel deemed by subclause (1) to be the hostel's licensee as if the owner was the holder of a licence for the hostel and as if those regulations did not require that licence to be returned to the authority or to the licensee.

*Relationship with other enactments*

**73 Other relevant requirements not limited or affected**

These regulations do not limit or affect requirements—

- (a) imposed by any other enactments; and
- (b) applying to a hostel, the management of a hostel, or a hostel's facilities, owner, or premises.

*Offences and penalties*

**74 Failure to comply with conditions**

- (1) A licensee of a licensed hostel must ensure compliance with every condition of the licence.
- (2) A licensee commits an offence if the licensee contravenes subclause (1) at any time when boarders are accommodated in the hostel.
- (3) The offence is punishable on summary conviction by a fine not exceeding \$10,000.

**75 Failure to comply with standards or code of practice**

- (1) The owner of a hostel must ensure compliance—
  - (a) with the minimum standards for hostel premises and facilities in Part 3; and
  - (b) with the code of practice relating to management of hostels in Part 4.

- (2) An owner commits an offence if the owner contravenes sub-clause (1)(a) or (b) at any time when boarders are accommodated in the hostel.
- (3) The offence is punishable on summary conviction by a fine not exceeding \$10,000.

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**Schedule** r 42  
**Fees for applications for, or renewals of,  
licences**

<b>Licence or renewal</b>	<b>Fee (\$)</b>
Initial licence for hostel operating at commencement of these regulations: if application made—	
(a) within 1 year of that commencement	830.00
(b) 1 year or more after that commencement	1,955.00
Initial licence for hostel that started operating after commencement of these regulations	1,955.00
Renewal of licence: if application required by regulation 19 (with or without amendments)	250.00
Renewal of licence: if application required by regulation 20 (with or without amendments)	125.00
Other renewal of licence (with or without amendments)	630.00
Replacement licence: application under regulation 41 (unless the licence is to correct an error or errors made by the authority)	60.00

Diane Morcom,  
Clerk of the Executive Council.

Reprinted as at  
3 December 2007      **Education (Hostels) Regulations 2005**

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Issued under the authority of the Acts and Regulations Publication Act 1989.  
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**Notes****1 General**

This is a reprint of the Education (Hostels) Regulations 2005. The reprint incorporates all the amendments to the regulations as at 3 December 2007, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that have yet to come into force or that contain relevant transitional or savings provisions are also included, after the principal enactment, in chronological order.

**2 Status of reprints**

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

**3 How reprints are prepared**

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, *see*

<http://www.pco.parliament.govt.nz/legislation/reprints.shtml>  
or Part 8 of the *Tables of Acts and Ordinances and Statutory Regulations, and Deemed Regulations in Force*.

**4 Changes made under section 17C of the Acts and Regulations Publication Act 1989**

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
  - indentation
  - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)
- position of the date of assent (it now appears on the front page of each Act)

- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
  - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
  - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

**5** *List of amendments incorporated in this reprint  
(most recent first)*

Insolvency Act 2006 (2006 No 55): section 445

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