

Policy Statement

Residential Care Homes (Elderly Persons) Ordinance

The Residential Care Homes (Elderly Persons) Ordinance was enacted in October 1994. It aims to regulate homes established for the residential care of elderly persons who have attained the age of 60 years. The Ordinance has come into full operation on 1 June 1996. The purpose of the legislation is to ensure that residential care homes for the elderly provide services of a reasonable standard and that the welfare of the elderly residents is safeguarded. Under the Ordinance, residential care homes are regulated either by licence or certificate of exemption.

Nevertheless, the Department's policy is that certificates of exemption are to be granted to residential care homes for the elderly already in operation before 1 April 1995 but which are unable to comply fully with the legislative requirements. All residential care homes for the elderly which come into existence and which want to commence operation on or after 1 April 1995 should be subject to regulation by the issue of a licence rather than the issue of a certificate of exemption. The main reason for the policy is that regulation under a licence will in the opinion of the Director of Social Welfare, better ensure high standards of residential care for elderly persons and better safeguard the interests of elderly residents. All the pre-existing residential care homes for the elderly have fully met licensing requirements in July 2002 and no more certificate of exemption has been renewed afterwards. It is unlikely that in future the Director of Social Welfare will issue a certificate of exemption for any residential care home for the elderly unless there are exceptional grounds which warrant a departure from the policy.

A licence, which is issued in respect of a specific residential care home for the elderly contains information of the home being certified under the hand of the Director of Social Welfare, shall be evidence of facts stated therein under section 8(5) of the Residential Care Homes (Elderly Persons) Ordinance and, is thus non-transferable. In case there is any change(s) in home name, home address, home type, licensing capacity and/or licence holder, application for a new licence is required.

HOW TO APPLY

FOR A LICENCE UNDER

THE RESIDENTIAL CARE HOMES

(ELDERLY PERSONS) ORDINANCE

Introduction

The purpose of the Residential Care Homes (Elderly Persons) Ordinance provides for the control of residential homes established for the care of elderly persons through a licensing system administered by the Director of Social Welfare. It aims to ensure that residents in these homes receive services of acceptable standards that are of benefit to them physically, emotionally and socially. For details of the licensing system, please see the policy statement.

The information given in this pamphlet is for guidance purposes only. Copies of the Residential Care Homes (Elderly Persons) Ordinance 1994 and Regulation can be purchased by calling the Publications Sales Section of Information Services Department at 2537 1910 or visiting the online Government Bookstore at <http://bookstore.esdlife.com>.

The Licensing Office referred to in the text is the Licensing Office of Residential Care Homes for the Elderly (LORCHE).

Definition

Under the Ordinance, a residential care home for the elderly is defined as any premises at which more than five persons who have attained the age of 60 are habitually received for the purposes of care while resident therein. The Ordinance does not apply to any residential care home maintained and controlled by the Government or the Housing Authority, or any residential care homes used or intended for use solely for the purpose of the medical treatment of persons requiring medical treatment.

Application for a Licence

Any person who on any occasion operates, keeps, manages or otherwise has control of a residential care home for the elderly is required to possess a Licence which are subject to renewal. Conditions in relation to the operation, keeping, management or other control of the residential care home may be imposed upon the issue or renewal of a Licence. The validity period of a Licence may vary according to the degree of compliance of the home with various statutory requirement as outlined in the Residential Care Homes (Elderly Persons) Ordinance, its Regulation and the Code of Practice of Residential Care Homes (Elderly Persons) on staffing, space, location, design, structure, safety precautions and quality of care to the residents.

It is the responsibility of the applicant to ensure that his/her premises do comply with the lease conditions and Deed of Mutual Covenant.

Loss of Licence

If the Licence is lost, the Licence holder should report the loss to the police and apply to the Licensing Office for a certified true copy of the Licence in respect of the residential care home for the elderly concerned.

Penalties

Any person who on any occasion operates, keeps, manages or otherwise has control of a residential care home for the elderly without a valid Licence, or in contravention of any of the conditions so specified in the Licence will be liable on conviction to a fine at level six (at present \$100,000) and to imprisonment for two years and to a fine of \$10,000 for each day during which the offence continues.

Fees

No fee is payable for an application or on the issue or renewal of a Licence.

How to apply

Application forms for the issue or renewal of a Licence can be downloaded from the website of Social Welfare Department at <http://www.swd.gov.hk> or obtained from the Licensing Office of the Social Welfare Department at Room 2354, 23/F., Wu Chung House, 213 Queen's Road East, Wanchai, Hong Kong

Application forms (the original and three copies), completed in English or Chinese should be returned by registered post or in person to the Licensing Office. For enquiry, please contact the Licensing Office at tel 2961 7211 or 2834 7414.