

Statutory Document No. 2018/0079



Social Services Act 2011

ADULT SOCIAL CARE SERVICES (CHARGES) REGULATIONS 2018

Approved by Tynwald: 20 March 2018
Coming into Operation: 9 April 2018

The Department of Health and Social Care makes the following Regulations under sections 15(1) and 30(1)¹ of the Social Services Act 2011.

1 Title

These Regulations are the Adult Social Care Services (Charges) Regulations 2018.

2 Commencement

If approved by Tynwald, these Regulations come into operation on 9 April 2018².

3 Interpretation and application

(1) In these Regulations—

“**the Act**” means the *Social Services Act 2011* and a reference to a numbered Part or section is to the Part or section of the Act so numbered;

“**adult**” means a person who is aged 18 years or older;

“**adult care home**” has the same meaning given in section 16 of the Care Act;

“**adult day care centre**” has the same meaning given in section 17 of the Care Act;

“**the Care Act**” means the *Regulation of Care Act 2013*;

“**independent care accommodation**” means an adult care home which the Department³—

¹ Section 30(1) is cited because of the meaning it ascribes to “prescribed”.

² Tynwald approval is required by section 29.

³ The Department referred to is the Department of Health and Social Care (see section 30(1)).

- (i) has secured the provision of under section 10(1) with an independent care service; and
- (ii) is meeting the cost of the provision of that adult care home;

“**independent care service**” has the same meaning given in section 10 of the Care Act;

“**liable person**” means an eligible person to whom social care services are provided by the Department or for whom the Department has secured independent care accommodation, following an assessment under section 7;

“**nursing home**” means an adult care home which provides nursing care substantially for persons with complex needs, where the care is supervised by a registered nurse; and

“**respite**”, in relation to social care services, means a service which is pre-planned and for a finite period.

- (2) These Regulations relate only to—
 - (a) social care services provided to adults directly by the Department; or
 - (b) independent care accommodation.

4 Non-residential social care services

- (1) A liable person who is provided with a non-residential social care service at an adult day care centre must pay to the Department the charge for that service as specified in Table 1 for the social care service provided.

Table 1

Social care service	Charge
(a) Non-residential services including lunch	(a) £5.16 per day
(b) Non-residential services not including lunch	(b) £2.06 per day

- (2) A liable person residing in a property specified in the Table in the Schedule (residential services – properties) who is also provided with a non-residential social care service at an adult day care centre must pay to the Department the charge of £2.06 for each day the non-residential social care service is provided.
- (3) A liable person who is provided with a non-residential social care service in a private dwelling must pay to the Department the charge specified in Table 2.

Table 2

Day when social care service provided	Charge
(a) Monday to Friday	(a) £19.43 per hour
(b) Saturday	(b) £29.14 per hour
(c) Sunday and Public Holidays	(c) £38.96 per hour

This paragraph is subject to paragraphs (4) and (5).

- (4) In the case of a liable person who was receiving Home Support Dementia Care in the week up to and including the 9 April 2017, subject to paragraph (5) the charge specified in paragraph (3) is subject to a maximum of £136.01 per week.
- (5) The charge in paragraph (3) does not apply if the liable person is entitled to income support for any day falling in the week in which the service is provided.
- (6) In this regulation—
- “**Home Support Dementia Care**” means a social care service provided in a private dwelling for liable persons diagnosed with dementia and who need a high level of support with daily living tasks;
- “**income support**” means income support under section 124 of the Social Security Contributions and Benefits Act 1992⁴ (income support) as it has effect in the Island⁵;
- “**private dwelling**” means a dwelling, together with any garage, garden and outbuildings enjoyed with it, which the liable person normally occupies as his or her home; and
- “**week**” means a period of 7 days commencing on a Monday.

5 Residential social care services

- (1) Paragraphs (2) to (4) are subject to regulation 6 (temporary absence from an adult care home).
- (2) A liable person residing in an adult care home which is a nursing home must pay to the Department a weekly charge of £852.61 for the social care service provided.
- (3) A liable person residing in an adult care home which is not a nursing home must pay to the Department a weekly charge of £464.66 for the social care service provided.

But, this paragraph does not apply to paragraphs (4) or (5).

⁴ 1992 c.4 (of Parliament).

⁵ See SD 505/94 (relevant amendments to s.124 made by SD 150/99, SD 539/99, SD 600/00, SD 880/02 and SD 645/05).

- (4) A liable person residing in the premises specified in Table 3 must pay to the Department the corresponding weekly charge specified for those premises in that Table for the social care service provided.

Table 3

Premises		Charge	
(a)	Gansey Unit of Southlands	(a)	£647.78
(b)	Langness Unit of Southlands	(b)	£647.78
(c)	Reayrt Skyal	(c)	£647.78
(d)	Sweetbriar Unit of Thie Meanagh	(d)	£647.78
(e)	Unit 1 of Thie Meanagh	(e)	£749.35

- (5) A liable person who is residing at a property specified in the Table in the Schedule (residential services – properties) must pay to the Department the weekly charge of £72.31 for the social care service provided.

6 Temporary absence from an adult care home

- (1) Where a liable person to whom regulation 5(2), (3) or (4) applies –
- is temporarily absent from an adult care home on becoming a patient; and
 - during the period of absence he or she remains liable to pay a weekly charge in respect of that adult care home,
- the applicable weekly charge specified in paragraph (2) applies to the liable person.
- (2) If the liable person has been a patient –
- for 6 weeks or less, the weekly charge the liable person must pay the Department is the corresponding weekly charge specified for those premises in Table 4 for the social care service provided; and
 - for more than 6 weeks, the weekly charge shall be nil.

Table 4

Premises		Charge	
(a)	An adult care home to which regulation 5(2) applies	(a)	£697.84
(b)	An adult care home to which regulation 5(3) applies	(b)	£371.70
(c)	Gansey Unit of Southlands	(c)	£518.21
(d)	Langness Unit of Southlands	(d)	£518.21
(e)	Reayrt Skyal	(e)	£518.21
(f)	Sweetbriar Unit of Thie Meanagh	(f)	£518.21
(g)	Unit 1 of Thie Meanagh	(g)	£599.48

- (3) For the purposes of paragraph (2), the period a liable person is deemed to be a patient begins on the day after the day on which the liable person

enters a hospital or similar institution, and ends on the day on which he or she leaves such a hospital or similar institution.

(4) In this regulation—

“**patient**” means a person who is regarded as having free in-patient treatment;

“**free in-patient treatment**” means the person is to be regarded as receiving free in-patient treatment for any period for which he or she is maintained free of charge while undergoing medical or other treatment as an in-patient in a hospital or similar institution; and

“**hospital or similar institution**” means accommodation under section 27 of the *National Health Services Act 2001*.

7 Respite social care services

(1) A liable person who is provided with a respite social care service at Appledene or Hollydene, Radcliffe Villas, Glencrutchery Road, Douglas must pay to the Department the charge specified for that service in Table 5.

Table 5

Social care service		Charge
(a)	overnight stay, daytime respite and all meals	(a) £10.33 per night
(b)	overnight stay including breakfast only	(b) £7 per night
(c)	evening meal only	(c) £3 per meal

(2) In the case of a liable person who is provided with a respite social care service to which paragraph (1) would apply but the respite social care service—

(a) occurs at premises on the Island other than the premises specified in paragraph (1); and

(b) is organised by the Department,

the liable person must pay to the Department £10.33 for each overnight stay.

(3) A liable person who is provided with a respite social care service at—

(a) an adult care home to which regulation 5(2) or (3) (residential social care services) applies must pay to the Department the applicable charge specified in regulation 5(2) or (3); or

(b) premises listed in Table 3 in regulation 5(4), must pay to the Department the corresponding charge for those premises specified in that Table,

divided by 7 and multiplied by the number of nights that the liable person has stayed in the premises.

- (4) If the charge calculated in accordance with paragraph (3) results in a fraction of a penny, that fraction is to be disregarded.

8 Revocation

The Adult Social Care Services (Charges) Regulations 2017⁶ are revoked.

MADE 16TH FEBRUARY 2018

DAVID ASHFORD
Minister for Health and Social Care

⁶ SD 2017/0067.

SCHEDULE

[Regulation 5(5)]

RESIDENTIAL SERVICES – PROPERTIES

1. Bungalows 1, 2, 3 (Cooileen) and 4 (Thie Grianagh) Cronk Grianagh The Strang IM4 4QR	2. Cushag House Castletown Road Port St Mary IM9 5LS
3. 24 Farmhill Meadows Farmhill Braddan IM2 2LJ	4. Glendale 15 Brunswick Road Douglas IM2 3LH
5. Greenacres and Spring Meadows Braddan Road Strang Douglas IM4 4QN	6. Griffindale House and Flats Brunswick Road Douglas IM2 3LG
7. 11 Hutchinson Square Douglas IM2 4HT	8. 17 Kensington Road Douglas IM1 3EP
9. 3 and 4 Rosebank Vicarage Road Farmhill Braddan IM2 2QW	10. Thie Milan 4 Derby Road Douglas IM2 3ET
11. Thie My Chree 9 Meadow View Second Avenue Onchan IM3 4LU	12. Thie Ushtey Greenfield Road Douglas IM2 6ED

*EXPLANATORY NOTE**(This note is not part of the Regulations)*

These Regulations provide for the charging structure for social care services provided by the Department under the Social Services Act 2011.

Regulation 1 provides for the title of the Regulations and regulation 2 provides for their commencement from 9th April 2018.

Regulation 3(1) provides for the interpretation of terms used throughout the Regulations.

Currently, the Department can directly provide care accommodation under section 10 (power to provide care accommodation) of the Act to meet the needs of a person assessed under section 7 (assessment of need for social care services) of the Act. Alternatively, again under section 10 of the Act, it can secure the provision of that accommodation with an independent care service, if it was determined following assessment that the independent care service could more appropriately meet the assessed needs of the person (e.g. nursing accommodation which is not provided directly by the Department).

Regulation 3(2) provides for the application of the Regulations in the circumstances described above, which are limited to —

- (a) social care services provided to adults directly by the Department, or
- (b) care accommodation the Department has secured with an independent care service, and the Department is meeting the cost of, on behalf of the resident.

Regulation 4 provides for the charges for non-residential social care services. Paragraph (1) provides for the charges for non-residential services provided at an adult day care centre by the Department. Paragraph (2) provides for the charge for persons who are resident in one of the properties specified in the Table in the Schedule and who are also provided with a non-residential service to which paragraph (1) applies. Paragraph (3) provides for the hourly charge for a non-residential social care service at a liable person's own home. Paragraph (4) provides that the charge in paragraph (3) is subject to a maximum of £136.01 per week in the case of a person receiving Home Support Dementia Care immediately prior to 9th April 2017 to continue to protect a limited number of service recipients from a previous cap in home care charges. Paragraph (5) provides that the charge in paragraph (3) does not apply in any week during which the liable person is entitled to income support.

Regulation 5 provides for weekly charges for residential services, accommodation either provided directly by the Department, or where the Department has secured the care accommodation with an independent care provider, if that is more appropriate to meet the assessed needs of a person, and where the Department itself is paying the

independent care service provider. Paragraph (2) provides for charges in an adult care home which is a nursing home and paragraph (3) provides for the charges in an adult care home which is a residential home. Paragraph (4) provides for the charges for persons residing in the Department's EMI or Dementia Units listed in Table 3 (Unit 1 and Sweetbriar Unit of Thie Meanagh, Gansey and Langness Units of Southlands, and Reayrt Skyal). Paragraph (5) provides for the weekly charge for persons resident in properties specified in the Table in the Schedule.

Regulation 6 provides for the existing charging arrangements in an adult care home, whereby the liable person receives free hospital in-patient treatment in a hospital for a temporary period, and the adult care home retain their placement. Currently, the applicable amount of income support payable to the person in respect of the fees for the adult care home is reduced by 20% immediately the person goes into hospital, and reduces to nil after 6 weeks. Table 4 in regulation 6 specifies a corresponding reduction in the weekly charge for residential homes, nursing homes, EMI and Dementia Units in such circumstances.

Regulation 7 provides for charges for respite services. Paragraph (1) provides for the respite charges for persons provided with the services listed in Table 5 at either Appledene or Hollydene. Paragraph (2) provides for the charge for overnight respite for persons to whom paragraph (1) would apply, except the person is staying in premises on the Island, other than those specified in paragraph (1) (Appledene or Hollydene), and which is also arranged by the Department as a short break. Paragraph (3) provides for the calculation of an overnight respite charge for persons staying in an adult care home provided by the Department. Paragraph (4) provides that if the calculation under paragraph (3) results in a fraction of a penny, that fraction is ignored.

Regulation 8 revokes the Adult Social Care Services (Charges) Regulations 2017 relating to charges applied from 10 April 2017.

Services provided by the Department which will not be subject to charges include -

- The provision of transport to attend a day service where the transport is provided by or arranged by the Department;
- The provision of reablement support which is provided to persons who have been assessed as having care needs and which is delivered to maximise their level of independence by learning or relearning the skills necessary for daily living; and
- Assessment of need, advice and information about relevant social care services provided by an independent or third sector provider.