
WELSH STATUTORY INSTRUMENTS

2008 No. 2439

The Mental Health (Hospital, Guardianship, Community Treatment and Consent to Treatment) (Wales) Regulations 2008

PART 1

General

Title, application and commencement

1. The title of these Regulations is the Mental Health (Hospital, Guardianship, Community Treatment and Consent to Treatment) (Wales) Regulations 2008, they apply in relation to Wales and come into force on 3 November 2008.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires —

“the Act” (“*y Ddeddf*”) means the Mental Health Act 1983;

“bank holiday” (“*gwyl banc*”) means a bank holiday under the Banking and Financial Dealings Act 1971(1);

“business day” (“*diwrnod busnes*”) means any day except Saturday, Sunday or a bank holiday;

“document” (“*dogfen*”) means any application, recommendation, record, report, order, notice or other document;

“electronic communication” (“*cyfathrebiad electronig*”) has the same meaning as in section 15(1) of the Electronic Communications Act 2000(2);

“private guardian” (“*gwarcheidwad preifat*”), in relation to a patient, means a person, other than a local social services authority, who acts as a guardian under the Act;

“served” (“*cyflwyno*”), in relation to a document, includes addressed, delivered, given, forwarded, furnished or sent;

“special hospital” (“*ysbyty arbennig*”) means a hospital at which high security psychiatric services are provided

“tribunal” (“*tribiwnlys*”) means the Mental Health Tribunal for Wales or the First-tier Tribunal established under the Tribunals, Courts and Enforcement Act 2007(3) as the case may be.

(2) Except insofar as the context otherwise requires, any reference in these Regulations to —

(a) a numbered section is to the section of the Act bearing that number;

(b) a numbered regulation or Schedule is to the regulation in or Schedule to these regulations bearing that number;

(1) 1971 c. 80.

(2) 2007 c. 7.

(3) 2007 c. 15.

- (c) any reference in a regulation to a numbered paragraph is a reference to the paragraph of that regulation bearing that number;
- (d) an alphanumeric form is a reference to the form in Schedule 1 bearing that designation.

Documents

3.—(1) Except in a case to which paragraphs (2), (3) (4) or (5) apply, any document required or authorised to be served upon any authority, body or person by or under Part 2 of the Act (compulsory admission to hospital, guardianship and supervised community treatment) or these Regulations may be served –

- (a) by delivering it to the authority, body or person upon whom it is to be served; or
- (b) by delivering it to any person authorised by that authority, body or person to receive it; or
- (c) by sending it by prepaid post addressed to—
 - (i) the authority or body at their registered or principal office, or
 - (ii) to the person upon whom it is to be served at the person’s usual or last known residence; or
- (d) by delivering it using an internal mail system operated by the authority, body or person.

(2) Any application for the admission of a patient to a hospital under Part 2 of the Act must be served by delivering the application to an officer of the managers of the hospital, to which it is proposed that the patient will be admitted, authorised by them to receive it.

(3) Where a patient is liable to be detained in a hospital under Part 2 of the Act—

- (a) any order by the nearest relative of the patient under section 23 for the patient’s discharge, and
- (b) the notice of such order under section 25(1), must be served by—
 - (i) delivering the order or notice at that hospital to an officer of the managers authorised by them to receive it, or
 - (ii) sending it by prepaid post to those managers at that hospital, or
 - (iii) delivering it using an internal mail system operated by the managers upon whom it is to be served, if those managers agree.

(4) Where a patient is a community patient—

- (a) any order by the nearest relative of the patient under section 23(1A) for the patient’s discharge, and
- (b) the notice of such order given under section 25(1A), must be served by—
 - (i) delivery of the order or notice at the patient’s responsible hospital to an officer of the managers authorised by them to receive it, or
 - (ii) by sending it by prepaid post to those managers at that hospital, or
 - (iii) delivering it using an internal mail system operated by the managers upon whom it is to be served, if those managers agree.

(5) Any report made under section 5(2) (detention of patient already in hospital for 72 hours) must be served by—

- (a) delivery of the report to an officer of the managers of the hospital authorised by them to receive it, or
- (b) delivering it using an internal mail system operated by the managers upon whom it is to be served, if those managers agree.

(6) Where a document referred to in this regulation is sent by prepaid—

- (a) first class post, service is deemed to have taken place on the second business day following the day of posting;
- (b) second class post, service is deemed to have taken place on the fourth business day following posting,

unless the contrary is shown

(7) Where a document under this regulation is delivered using an internal mail system, service is considered to have taken place immediately it is delivered into the internal mail system.

(8) Subject to sections 6(3) and 8(3) (proof of applications), any document required or authorised by or under Part 2 of the Act or these Regulations and purporting to be signed by a person required or authorised by or under that Part or these Regulations to do so may be received in evidence and be deemed to be such a document without further proof, unless the contrary is shown.

(9) Any document required to be addressed to the managers of a hospital in accordance with the Act or these Regulations will be deemed to be properly addressed to such managers if addressed to the administrator of that hospital.

(10) Where under Part 2 of the Act or these Regulations the managers of a hospital are required to make any record or report, that function may be performed by an officer authorised by those managers in that behalf.

(11) Where under these Regulations the decision to accept service by a particular method requires the agreement of the managers of a hospital, that agreement may be given by an officer authorised by those managers in that behalf.