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WELSH STATUTORY INSTRUMENTS

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**2012 No. 1265 (W.158)**

**MENTAL HEALTH, WALES**

The Mental Health (Hospital, Guardianship,  
Community Treatment and Consent to Treatment)  
(Wales) (Amendment) Regulations 2012

<i>Made</i>	- - - -	<i>9 May 2012</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>11 May 2012</i>
<i>Coming into force</i>	- -	<i>2 June 2012</i>

The Welsh Ministers make these Regulations in exercise of the powers conferred by section 64H(2) of the Mental Health Act 1983(1).

**Title and commencement**

1. The title of these Regulations is the Mental Health (Hospital, Guardianship, Community Treatment and Consent to Treatment) (Wales) (Amendment) Regulations 2012 and they come into force on 2 June 2012.

**Amendment of the Mental Health (Hospital, Guardianship, Community Treatment and Consent to Treatment) (Wales) Regulations 2008**

2.—(1) The Mental Health (Hospital, Guardianship, Community Treatment and Consent to Treatment) (Wales) Regulations 2008(2) are amended as follows.

(2) In regulation 40 (certificates for administration of treatment)—

- (a) in paragraph (4) after “Form CO 7” insert “except where paragraph (5) applies”; and
- (b) after paragraph (4) insert—

“(5) Where there is authority to give treatment to a patient by virtue of sections 64C(2) (a) or 64E(6)(a), the certificate required for the purposes of sections 64B(2)(b) and 64E(2) (b) must be in the form set out in Form CO 8.”

(3) In Schedule 1 (forms)—

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(1) 1983 c. 20. Section 64H was inserted by section 35(1) of the Mental Health Act 2007 (2007 c. 12) and was amended by section 299 of the Health and Social Care Act 2012 (2012 c. 7).  
(2) S.I. 2008/2439 (W.212).

- (a) in Form HO 15 (Mental Health Act 1983 section 20 — renewal of authority for detention)
  - (i) in Part 2 after “from the Responsible Clinician” insert “. This Part to be completed following consultation with the Responsible Clinician”, and
  - (ii) in Part 3 after “the Responsible Clinician” insert “following the completion of Part 2”;
- (b) in Form CP 1 (Mental Health Act 1983 section 17A — community treatment order), Part 1 condition 2—
  - (i) after “Part 4A” insert “that falls within section 64C(4)”, and
  - (ii) after “in the patient’s case” insert “(SOAD Part 4A Certificate)”;
- (c) in Form CP 5 (Mental Health Act 1983 section 17E — notice of recall to hospital), Part 2 paragraph (b), after “enabling a” insert “SOAD”;
- (d) in Form TC 8 (Mental Health Act 1983 Part 6 — transfer of patient subject to compulsion in the community), Part 1 condition 4, for “Part 4A of the Act the patient’s case” substitute “Part 4A that falls within section 64C(4) of the Act in the patient’s case (SOAD Part 4A Certificate)”;
- (e) in the heading of Form CO 7 for “(Part 4A Certificate)” substitute “(SOAD Part 4A Certificate)”;
- (f) after Form CO 7 insert—  
**“Form CO 8 Mental Health Act 1983 Part 4A — certificate of consent to treatment for community patient (Approved Clinician Part 4A certificate)**

Regulation 40(5)

I [full name and address] the approved clinician in charge of the treatment described below certify that [full name and address of patient]

- (a) is capable of understanding the nature, purpose and likely effects of [give description of treatment or plan of treatment; indicate clearly if the certificate is to apply to any or all of the treatment for a specified period]

AND

- (b) has consented to that treatment.

Signed [signature]

Date [date]

9 May 2012

*Lesley Griffiths*  
Minister for Health and Social Services, one of  
the Welsh Ministers

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## EXPLANATORY NOTE

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

These Regulations amend the Mental Health (Hospital, Guardianship, Community Treatment and Consent to Treatment) (Wales) Regulations 2008 ([S.I. 2008/2439 \(W.212\)](#)) (“the 2008 Regulations”).

Section 299 of the Health and Social Care Act 2012 (certificate of consent of community patients to treatment) amended sections 64C and 64E of the Mental Health Act 1983 to vary the certificate requirement where the patient has capacity to consent to the treatment and has consented. Regulation 2(2) amends regulation 40 of the 2008 Regulations to reflect this and regulation 2(3) makes amendments to forms in the Schedule to the 2008 Regulations and inserts a new form, Form CO 8.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.