

---

STATUTORY INSTRUMENTS

---

**2008 No. 1184**

**The Mental Health (Hospital, Guardianship  
and Treatment) (England) Regulations 2008**

**PART 1**

**GENERAL**

**Citation and commencement**

1.—(1) These Regulations may be cited as the Mental Health (Hospital, Guardianship and Treatment) (England) Regulations 2008 and shall come into force on 3rd November 2008.

(2) These Regulations apply to England only.

**Interpretation**

2.—(1) In these Regulations—

“the Act” means the Mental Health Act 1983;

“bank holiday” includes New Year’s Day, Good Friday, Easter Monday, Christmas Day and Boxing Day;

“business day” means any day except Saturday, Sunday or a bank holiday;

“the Commission” means the Mental Health Act Commission referred to in section 121(1);

“document” means any application, recommendation, record, report, order, notice or other document;

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

“guardianship patient” means a person who is subject to guardianship under the Act;

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

“responsible registered establishment” is a registered establishment which is a responsible hospital;

“served”, in relation to a document, includes addressed, delivered, given, forwarded, furnished or sent.

(2) Unless otherwise stated, any reference in these Regulations to—

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

(b) an alphanumeric form is a reference to the form in Schedule 1 bearing that designation.

---

(1) The Mental Health Act Commission was established as a Special Health Authority under section 11 of the National Health Service Act 1977 (c.49), as consolidated by section 28 of the National Health Service Act 2006 (c.41). Section 121 of the Mental Health Act 1983 provides for the continuance of the Mental Health Act Commission as a Special Health Authority.

(2) 2000 c.7.

## Documents

3.—(1) Except in a case to which paragraph (2), (3), (4) or (5) applies, or in a case to which regulation 6(3) (recall notices in respect of community patients) applies, 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 or community treatment orders) or these Regulations may be served by delivering it to—

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

(2) Any application for the admission of a patient to a hospital under Part 2 of the Act shall be served by delivering the application to an officer of the managers of the hospital to which it is proposed that the patient shall be admitted, who is 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 given under section 25(1), shall be served either by—
  - (i) delivery of the order or notice at that hospital to an officer of the managers authorised by the managers to receive it, or
  - (ii) sending it by pre-paid 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 for the patient's discharge, and
- (b) the notice of such order given under section 25(1A), shall be served by—
  - (i) delivery of the order or notice at the patient's responsible hospital to an officer of the managers authorised by the managers to receive it,
  - (ii) sending it by pre-paid 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 subsection (2) of section 5 (detention of patient already in hospital for 72 hours) shall be served by—

- (a) delivery of the report to an officer of the managers of the hospital authorised by those managers 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 pre-paid—

- (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—

(a) required or authorised by or under Part 2 of the Act or these Regulations, and

(b) purporting to be signed by a person required or authorised by or under that Part or these Regulations to do so,

shall be received in evidence and be deemed to be such a document without further proof.

(9) 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.

(10) 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.