
STATUTORY INSTRUMENTS

2008 No. 1184

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

PART 3

Functions of Guardians and Nearest Relatives

Duties of private guardians

22.—(1) It shall be the duty of a private guardian—

- (a) to appoint a registered medical practitioner to act as the nominated medical attendant of the patient;
- (b) to notify the responsible local social services authority of the name and address of the nominated medical attendant;
- (c) in exercising the powers and duties of a private guardian conferred or imposed by the Act and these Regulations, to comply with such directions as that authority may give;
- (d) to furnish that authority with all such reports or other information with regard to the patient as the authority may from time to time require;
- (e) to notify that authority—
 - (i) on the reception of the patient into guardianship, of the private guardian's address and the address of the patient,
 - (ii) except in a case to which paragraph (f) applies, of any permanent change of either address, before or not later than 7 days after the change takes place;
- (f) on any permanent change of the private guardian's address, where the new address is in the area of a different local social services authority, to notify that authority—
 - (i) of that address and that of the patient,
 - (ii) of the particulars mentioned in paragraph (b),and to notify the authority which was formerly responsible of the permanent change in the private guardian's address;
- (g) in the event of the death of the patient, or the termination of the guardianship by discharge, transfer or otherwise, to notify the responsible local social services authority as soon as reasonably practicable.

(2) Any notice, reports or other information under this regulation may be given or furnished in any other way (in addition to the methods of serving documents provided for by regulation 3(1)) to which the relevant local social services authority agrees, including orally or by electronic communication.

Visits to patients subject to guardianship

23. The responsible local social services authority shall arrange for every patient received into guardianship under the Act to be visited at such intervals as the authority may decide, but—

- (a) in any case at intervals of not more than 3 months, and
- (b) at least one such visit in any year shall be made by an approved clinician or a practitioner approved by the Secretary of State for the purposes of section 12 (general provisions as to medical recommendations).

Performance of functions of nearest relative

24.—(1) Subject to the conditions of paragraph (7), any person other than—

- (a) the patient;
- (b) a person mentioned in section 26(5) (persons deemed not to be the nearest relative), or
- (c) a person in respect of whom the court has made an order on the grounds set out in section 29(3)(b) to (e) (which sets out the grounds on which an application to the court for the appointment of a person to exercise the functions of a nearest relative may be made) for so long as an order under that section is in effect,

may be authorised in accordance with paragraph (2) to act on behalf of the nearest relative in respect of the matters mentioned in paragraph (3).

(2) Subject to paragraph (8), the authorisation mentioned in paragraph (1) must be given in writing by the nearest relative.

(3) The matters referred to in paragraph (1) are the performance in respect of the patient of the functions conferred upon the nearest relative under—

- (a) Part 2 of the Act (as modified by Schedule 1 to the Act as the case may be), and
- (b) section 66 (applications to tribunals).

(4) An authorisation given under paragraph (1) shall take effect upon its receipt by the person authorised.

(5) Subject to the conditions of paragraph (7), the nearest relative of a patient may give notice in writing revoking that authorisation.

(6) Any revocation of such authorisation shall take effect upon the receipt of the notice by the person authorised.

(7) The conditions mentioned in paragraphs (1) and (5) are that the nearest relative shall immediately notify—

- (a) the patient;
- (b) in the case of a patient liable to be detained in a hospital, the managers of that hospital;
- (c) in the case of a patient subject to guardianship, the responsible local social services authority and the private guardian, if any;
- (d) in the case of a community patient, the managers of the responsible hospital,

of the authorisation or, as the case may be, its revocation.

(8) An authorisation or notification referred to in this regulation may be transmitted by means of electronic communication if the recipient agrees.

Discharge by nearest relative

25.—(1) Any report given by the responsible clinician for the purposes of section 25 (restrictions on discharge by nearest relative)—

- (a) shall be in the form set out in Part 1 of Form M2, and
- (b) the receipt of that report by—
 - (i) the managers of the hospital in which the patient is liable to be detained, or

(ii) the managers of the responsible hospital in the case of a community patient, shall be in the form set out in Part 2 of that Form.

(2) In addition to the methods of serving documents provided for by regulation 3(1), reports under this regulation may be furnished by—

(a) transmission by facsimile, or

(b) the transmission in electronic form of a reproduction of the report,

if the managers of the hospital agree.