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## EXPLANATORY NOTE

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

These Regulations amend the Mental Health (Hospital, Guardianship and Treatment) (England) Regulations 2008 (S.I. 2008/1184) (the “2008 Regulations”), which deal with procedural matters relating to the compulsory treatment of people with mental disorders under the Mental Health Act 1983 (c. 20) (“the Act”).

Regulation 1 contains commencement, citation, application and interpretation provisions.

Regulation 2 amends regulation 3 of the 2008 Regulations, which sets out the manner in which documents may be served under the 2008 Regulations and Part 2 of the Act.

- Regulation 2(2) amends regulation 3(1) of the 2008 Regulations by adding electronic communication to the permitted methods of service.
- The key amendment made by regulation 2(3) is to insert paragraph (1B) into the 2008 Regulations, which creates an exception to the general rule that documents may be served electronically. Paragraph (1B) provides that documents may not be served by means of electronic communication alone on patients liable to be detained in hospital, or patients subject to guardianship or community treatment orders.
- Regulation 2(4) amends regulation 3(2) of the 2008 Regulations to allow for detention applications to be sent to hospital managers electronically, whether or not the managers agree.
- Regulation 2(5) amends regulation 3(3) of the 2008 Regulations to allow for discharge orders and notices made by nearest relatives to be sent to hospital managers electronically, so long as the managers agree.
- Regulation 2(6) amends regulation 3(4) of the 2008 Regulations to allow for discharge orders and notices, made by the nearest relatives of community patients, to be sent electronically to the managers of the responsible hospital, so long as the managers agree.
- Regulation 2(7) amends regulation 3(5) of the 2008 Regulations. It allows for reports made by clinicians under section 5(2) of the Act, to detain people who are already inpatients in hospital, to be sent electronically to the hospital managers, so long as the managers agree.
- Regulation 2(8) inserts regulation 3(7A) into the 2008 Regulations. Paragraph (7A) provides that documents sent electronically are considered served immediately after they have been sent. This is the case except for discharge orders or notices sent by nearest relatives, which are considered served at the beginning of the next business day after the day on which they are sent.
- Regulation 2(9) replaces regulation 3(8) of the 2008 Regulations. The new paragraph (8) re-enacts the previous provision as to proof of documents, and extends it by providing that a document purporting to be signed electronically by the appropriate person will be deemed to be validly completed without further proof.
- Regulation 2(10) inserts regulation 3(9A) into the 2008 Regulations. Paragraph (9A) provides that any document which may be served on managers of a hospital may also be served on their officers who are authorised by the hospital managers to receive it.

Regulations 3, 4, 5 and 6 of these regulations amend regulations 22(2), 24, 25(2) and 26(8) of the 2008 Regulations, respectively. In each case, the purpose of the amendment is to omit text rendered unnecessary by the new regulation 3(1)(b).

**Status:** *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

Regulation 7 updates the prescribed forms set out in Schedule 1 to the 2008 Regulations. Regulation 8 makes transitional and savings provision.

A full impact assessment has not been produced for this instrument as no significant impact on the private or voluntary sector is foreseen.