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## EXPLANATORY NOTE

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

1. These Regulations contain provisions about arrangements for the appointment of Independent Mental Health Advocates (“IMHAs”). They contain provisions about who may be appointed to act as an IMHA, and persons who may be visited and interviewed by an IMHA for the purpose of providing help to a Welsh qualifying patient who has been admitted under section 4 (admission for assessment in cases of emergency) of the Mental Health Act 1983 (“the Act”).

2. Regulation 3 provides—

- (a) that Local Health Boards (LHBs) must make arrangements for IMHAs to be available to Welsh qualifying compulsory patients (as defined in section 130(I) of the Act), who are present in the area of the LHB when the independent mental health advocacy service is to be provided. Welsh qualifying compulsory patients are those who are:
  - (i) liable to be detained (other than under sections 135 and 136 of the Act) in a hospital or registered establishment (regulation 3(1)(a)),
  - (ii) subject to guardianship or a community treatment order under the Act (regulation 3(1)(b)),
  - (iii) being considered for a form of treatment which falls under section 57 of the Act (regulation 3(1)(c)), or
  - (iv) not yet 18 years of age and are being considered for a form of treatment under section 58A of the Act (regulation 3(1)(c));
- (b) that LHBs must make arrangements for IMHAs to be available to Welsh qualifying informal patients (as defined in section 130(J) of the Act) who are present in a hospital or registered establishment located within the area of the LHB when the independent mental health advocacy service is to be provided (regulation 3(2));
- (c) that LHBs may make arrangements with providers of advocacy services for the provision of IMHAs (regulation 3(3));
- (d) when making arrangements for the provision of IMHAs an LHB must have regard, as far as reasonably practicable, to the diverse circumstances of Welsh qualifying compulsory patients and Welsh qualifying informal patients (regulation 3(4));
- (e) that any person who is appointed to act as an IMHA must either be approved by the LHB or employed by a provider of advocacy services with which an LHB has made arrangements for the provision of advocacy services (regulation 3(5));
- (f) that before approving the appointment of a person as an IMHA, the LHB must be satisfied that he or she meets the appointment requirements provided in regulation 4 and the independence requirements provided in regulation 5 (regulation 3(6));
- (g) that an LHB must ensure that any provider of advocacy services with which it makes arrangements for the provision of advocacy services ensures that any person who the provider employs as an IMHA satisfies the appointment requirements provided in regulation 4 and the independence requirements provided in regulation 5 (regulation 3(7)); and
- (h) clarification of when a person is employed by a provider of advocacy services (regulation 3(8)).

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

3. Regulation 4 sets out the appointment requirements that a person must satisfy before he or she may be appointed as an IMHA.

4. Regulation 5 sets out the independence requirements that a person must satisfy before he or she may be appointed as an IMHA.

5. Regulation 6 provides that certain persons who are not professionally concerned with the medical treatment of a Welsh qualifying compulsory patient admitted under section 4 of the Act may be visited and interviewed by an IMHA for the purpose of providing help to such a patient.

6. Regulation 7 provides for the revocation of the Mental Health (Independent Mental Health Advocates) (Wales) Regulations 2008 (S.I.2008/2437 (W. 210)).

7. A regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Mental Health Legislation Team, Department for Health, Social Services and Children, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.