
STATUTORY INSTRUMENTS

1997 No. 801

MENTAL HEALTH

**The Mental Health (Hospital, Guardianship and
Consent to Treatment) Amendment Regulations 1997**

<i>Made</i>	- - - -	<i>13th March 1997</i>
<i>Laid before Parliament</i>		<i>13th March 1997</i>
<i>Coming into force</i>	- -	<i>7th April 1997</i>

The Secretary of State for Health in exercise of the powers conferred on him by section 32 of the Mental Health Act 1983(1) and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Mental Health (Hospital, Guardianship and Consent to Treatment) Amendment Regulations 1997 and shall come into force on 7th April 1997.

(2) In these Regulations “the principal Regulations” means the Mental Health (Hospital, Guardianship and Consent to Treatment) Regulations 1983(2).

Amendment of the principal Regulations

2. After regulation 10 of the principal Regulations there shall be inserted the following regulation—

“Detention or guardianship after absence without leave for more than 28 days

10A. Any report for the purposes of section 21B(2) (authority for detention or guardianship of patients who are taken into custody or return after more than 28 days)—

- (a) in relation to a patient who is liable to be detained, shall be in the form set out in Part I of Form 31A; and
- (b) in relation to a patient who is subject to guardianship, shall be in the form set out in Part I of Form 31B

(1) 1983 c. 20; section 32 is amended by the Mental Health (Patients in the Community) Act 1995 (c. 52), section 1(2) and Schedule 1, paragraph 2 and by the Health Authorities Act 1995 (c. 17), section 2(1) and Schedule 1, paragraph 107(4).
(2) S.I.1983/893; the relevant amending instrument is S.I. 1996/540.

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and the receipt of that report shall be recorded by the managers of the hospital in which the patient is liable to be detained or, as the case may be, the responsible local social services authority in the form set out in Part II of Form 31A or, as the case may be, 31B.”.

Amendment of Schedule 1 to the principal Regulations

3. In Schedule 1 to the principal Regulations (forms for use in connection with compulsory admission to hospital, guardianship and consent to treatment) after Form 31 there shall be inserted the Forms 31A and 31B set out in the Schedule to these Regulations.

Signed by authority of the Secretary of State for Health.

13th March 1997

Simon Burns
Parliamentary Under Secretary of State
Department of Health

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SCHEDULE

Regulation 3

FORM 31 A MENTAL HEALTH ACT 1983 SECTION 21 B AUTHORITY FOR DETENTION
AFTER ABSENCE WITHOUT LEAVE FOR MORE THAN 28 DAYS

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Regulation 10A(a)

PART I

(To be completed by the responsible medical officer)

To the managers of [name of hospital or mental nursing home in which patient is liable to be detained].

- I examined [name of patient] on [date of examination] who—
- (a) was admitted to hospital on [date of admission to hospital under the Mental Health Act 1983];
- (b) was absent without leave from hospital or the place where he ought to be beginning on [date absence without leave began];
- (c) was/is* liable to be detained for a period ending on [date authority for detention would have expired, apart from any extension under section 21, or date on which it will expire]; and
- (d) returned/was returned* to the hospital or place on [date].

*Delete the phrase which does not apply

In my opinion the patient is suffering from—(complete either (a) or (b) or both)

- (a) mental illness/severe mental impairment* and the patient's mental disorder is of a nature or degree which makes it appropriate for him to receive medical treatment in a hospital and either—
 - (i) such treatment is likely to alleviate or prevent a deterioration of his condition
 - or
 - (ii) the patient, if discharged, is unlikely to be able to care for himself, to obtain the care which he needs or to guard himself against serious exploitation,
- (b) psychopathic disorder/mental impairment* and the patient's mental disorder is of a nature or degree which makes it appropriate for him to receive medical treatment in a hospital and such treatment is likely to alleviate or prevent the deterioration of his condition.

Delete the indents not applicable

*Delete the phrase which does not apply

I am of the opinion that it is necessary—

- (i) in the interests of the patient's own health
- (ii) in the interests of the patient's own safety
- (iii) with a view to the protection of other persons

Delete the indents not applicable

that this patient should receive treatment and it cannot be provided unless the patient continues to be detained under the Act, for the following reasons:—

[Reasons should indicate whether other methods of care or treatment (e.g. out-patient treatment or local social services authority services) are available and if so why they are not appropriate, and why informal admission is not appropriate].

†Complete if appropriate

This report shall/shall not† have effect as a report duly furnished under section 20(3) for the renewal of the authority for the detention of the patient.

[The above declaration should be completed if the authority for the detention of the patient is due to expire within a period of two months beginning with the date the report is to be furnished to the managers].

Signed.....

Add name in block capitals.....

Date

PART II

(To be completed by the managers)

Delete the phrase which does not apply or both if nearest relative not known

This report was received by the managers/persons authorised to act on behalf of managers on [date]. The patient was informed of this report on [date].

The patient's nearest relative/the person authorised to exercise the functions of the patient's nearest relative was informed of this report on [date].

Signed.....
on behalf of the managers

Date..... 4.....

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FORM 31B MENTAL HEALTH ACT 1983 SECTION 21B AUTHORITY FOR GUARDIANSHIP
AFTER ABSENCE WITHOUT LEAVE FOR MORE THAN 28 DAYS

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Regulation 10A(b)

PART I

(To be completed by the responsible medical officer or nominated medical attendant)

To [name of guardian]

[name of responsible local social services authority if it is not the guardian]

I examined [name of patient] on [date of examination] who--

†Delete the phrase which does not apply

- (a) was received into guardianship on [date];
- (b) was absent without leave from the place where he is required to reside beginning on [date absence without leave began];
- (c) was/is† subject to guardianship for a period ending on [date authority for guardianship would have expired, apart from any extension under section 21, or date on which it will expire]; and
- (d) returned/was returned† to that place on [date].

*Insert mental illness, severe mental impairment, psychopathic disorder or mental impairment

I am of the opinion that this patient is suffering from* of a nature or degree which warrants the continuation of the guardianship.

It is necessary:--

Delete (i) or (ii) unless both apply

- (i) in the interests of the welfare of the patient
- (ii) for the protection of other persons

that the patient should remain under guardianship under the Act for the following reasons:--

[Reasons should indicate why other methods of care are not appropriate].

†Complete if appropriate

This report shall/shall not† have effect as a report duly furnished under section 20(6) for the renewal of the authority for the guardianship of the patient.

[The above declaration should be completed if the authority for the guardianship of the patient is due to expire within a period of two months beginning with the date the report is to be furnished to the responsible local social services authority].

†Delete whichever does not apply

Signed
†Responsible Medical Officer
Nominated Medical Attendant

Date.

PART II

(To be completed by the responsible local social services authority)

This report was received by/on behalf of the local social services authority on [date].

The patient was informed of this report on [date].

The guardian was informed of this report on [date].

Signed
on behalf of the responsible local social services authority

Date.

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Mental Health (Hospital, Guardianship and Consent to Treatment) Regulations 1983 by prescribing forms for continuing the detention in hospital or guardianship of a patient who returns, or is returned, after being absent without leave from hospital or the place where he ought to be for more than 28 days.