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STATUTORY INSTRUMENTS

2008 No. 2560

MENTAL HEALTH, ENGLAND

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

Made - - - - 30th September 2008

Laid before Parliament 6th October 2008

Coming into force in accordance with regulation 1(2)

The Secretary of State for Health, in exercise of the powers conferred by sections 19A(1) and 32(1) and (2) of the Mental Health Act 1983(1), makes the following regulations.

Citation, commencement and application

1.—(1) These Regulations may be cited as the Mental Health (Hospital, Guardianship and Treatment) (England) (Amendment) Regulations 2008.

(2) These Regulations shall come into force on 3rd November 2008 immediately after the coming into force of the Mental Health (Hospital, Guardianship and Treatment) (England) Regulations 2008(2).

(3) These Regulations apply to England only.

Amendment of the Mental Health (Hospital, Guardianship and Treatment) (England) Regulations 2008

2.—(1) The Mental Health (Hospital, Guardianship and Treatment) (England) Regulations 2008 are amended as follows.

(2) In regulation 17 (assignment of responsibility for community patients)—

(a) in paragraph (3)—

(i) in sub-paragraph (a), omit “Part 1 of”;

(ii) in sub-paragraph (b), for “transfer” (twice) substitute “assignment”;

(iii) in sub-paragraph (c), for “transfer” substitute “assignment”;

(1) 1983 c.20. The Mental Health Act 1983 was amended by the Mental Health Act 2007 (c.12).

(2) S.I. 2008/1184.

- (b) in paragraph (5), for “transfer” substitute “assignment”.
- (3) In regulation 26 (provision of information)—
 - (a) in paragraph (1)(l), before “to discharge” insert “not”;
 - (b) in paragraph (6), after “paragraph (1)” insert “ or (3)”.
- (4) In Schedule 1 (forms for use in connection with compulsory admission to hospital, guardianship and treatment)—
 - (a) in Form A7, after “I [PRINT name and address of second practitioner]” insert “last examined this patient on [date].”;
 - (b) in Form A9, after “I last saw the patient on [date]” insert “at [time]”;
 - (c) in Form H2—
 - (i) for “(who is not a registered practitioner)” substitute “(who is not a registered medical practitioner)”, and
 - (ii) in paragraph (d), for “mental health nursing” substitute “learning disabilities nursing”;
 - (d) in Form CTO8, for “*Complete the following only if the authority for detention is due to expire within that period of two months.*” substitute “*Complete the following only if the community treatment order is due to expire within that period of two months.*”;
 - (e) in Form CTO11, omit “(To be completed on behalf of the responsible hospital)”.

Signed by authority of the Secretary of State for Health

30th September 2008

Dawn Primarolo
Minister of State
Department of Health

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).

Regulation 2(2) amends regulation 17 of S.I. 2008/1184 (which deals with the assignment of responsibility for community patients)—

- so as to remove the otiose reference to “Part 1 of” the statutory form “CTO10”. As amended regulation 17 refers simply to “Form CTO10”
- by substituting references to “transfer” with references to “assignment”.

Regulation 2(3) amends regulation 26 of S.I. 2008/1184 (which deals with provision of information)

- by amending paragraph (1)(l) of regulation 26 to provide for the patient’s nearest relative (or the person appearing to the responsible local social services authority to be that person) to be informed of the renewal of the patient’s guardianship following the decision of that authority not to discharge the patient
- by amending paragraph (6) of regulation 26 so as to provide that any information referred to in paragraph (3) of that regulation (essentially information relating to tribunal rights and rights to discharge a patient) is to be given in writing to the person appearing to be the patient’s nearest relative.

Regulation 2(4) amends the following forms for use in connection with compulsory admission to hospital, guardianship and treatment under the Mental health Act 1983 (c.20) (“the 1983 Act”)—

- Form A7 (joint medical recommendation for admission for treatment under section 3 of the 1983 Act)
- Form A9 (emergency application by nearest relative for admission for assessment under section 4 of the 1983 Act)
- Form H2 (record of hospital in-patient under section 5(4) of the 1983 Act)
- Form CTO8 (authority for extension of community treatment period after absence without leave for more than 28 days under section 21B of the 1983 Act)
- Form CTO11 (certificate of appropriateness of treatment to be given to a community patient (Part 4A certificate) under section 64C(4) of the 1983 Act).

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