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STATUTORY INSTRUMENTS

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**2012 No. 1118**

**MENTAL HEALTH, ENGLAND**

**The Mental Health (Hospital, Guardianship and Treatment) (England) (Amendment) Regulations 2012**

*Made* - - - - *18th April 2012*  
*Laid before Parliament* *23rd April 2012*  
*Coming into force in accordance with regulation 1(2)*

The Secretary of State for Health makes these Regulations in exercise of the powers conferred by section 64H(2) of the Mental Health Act 1983(1).

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the Mental Health (Hospital, Guardianship and Treatment) (England) (Amendment) Regulations 2012.

(2) These Regulations shall come into force immediately after the coming into force of section 299 of the Health and Social Care Act 2012(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(3) are amended as follows.

(2) In regulation 28 (treatment of community patients not recalled to hospital)—

(a) in paragraph (1), after “Form CTO11”, insert “except where paragraph (1A) applies”;

(b) after paragraph (1) insert—

“(1A) Where there is authority to give treatment to a patient by virtue of section 64C(2) (a) or section 64E(6)(a), the certificate required for the purposes of sections 64B(2)(b) and 64E(2)(b) shall be in the form set out in Form CTO12.”.

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(1) 1983 c.20. Section 64H was inserted by s.35 (1) of the Mental Health Act 2007 (c.12). The 1983 Act is also amended by the Health and Social Care Act 2012(c.7) .  
(2) 2012 c.7.  
(3) S.I. 2008/1184 as amended by S.I. 2008/2560.

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*Status: This is the original version (as it was originally made).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

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“ (3) In Schedule 1 (Forms for use in connection with compulsory admission to hospital, guardianship and treatment), after Form CTO11, insert the following form—

Form CTO12                      *Regulation 28(1A)*  
Mental Health Act 1983 section 64C(4A)—certificate that  
community patient has capacity to consent (or if under 16 is  
competent to consent) to treatment and has done so (Part 4A  
consent certificate)

*(To be completed on behalf of the responsible hospital)*

I [PRINT full name and address] am the approved clinician in charge of the treatment of [PRINT full name and address of patient] who is subject to a community treatment order. I certify that this patient has the capacity/is competent to consent [*delete the one that is not appropriate*] and has consented to the following treatment. The treatment is: [Give description of treatment or plan of treatment.]

Signed

Date

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Signed by authority of the Secretary of State.

18th April 2012

*Paul Burstow*  
Minister of State,  
Department of Health

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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”).

Section 299 of the Health and Social Care Act 2012 (c.7) amended sections 64C and 64E of the Mental Health Act 1983 (c.20) to vary the certificate requirement where the patient has capacity to consent to the treatment and has consented, or if the patient is under 16, where the patient is competent to consent and does so. Regulation 2(2) amends regulation 28 of the 2008 Regulations to reflect this. Regulation 2(3) inserts the new form (Form CTO12) into Schedule 1 to the 2008 Regulations.