

2008 No. 1204

MENTAL HEALTH, ENGLAND AND WALES

The Mental Health (Mutual Recognition) Regulations 2008

<i>Made</i> - - - -	<i>28th April 2008</i>
<i>Laid before Parliament</i>	<i>7th May 2008</i>
<i>Laid before the National Assembly for Wales</i>	<i>7th May 2008</i>
<i>Coming into force</i> - -	<i>3rd November 2008</i>

The Secretary of State and the Welsh Ministers, acting jointly in exercise of the powers conferred by section 142A of the Mental Health Act 1983(a), make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Mental Health (Mutual Recognition) Regulations 2008 and shall come into force on 3rd November 2008.

(2) In these Regulations, “the Act” means the Mental Health Act 1983.

Approval under section 12(2) of the Act

2.—(1) Any person who is approved in relation to England for the purposes of section 12(2) of the Act, or treated as approved by virtue of section 12(2A) of the Act(b), shall in all circumstances relevant to the purposes of section 12(2) be treated as approved in relation to Wales.

(2) Any person who is approved in relation to Wales for the purposes of section 12(2) of the Act, or treated as approved by virtue of section 12(2A) of the Act, shall in all circumstances relevant to the purposes of section 12(2) be treated as approved in relation to England.

Person approved to act as an approved clinician

3.—(1) The circumstances in which a person who is approved to act as an approved clinician in relation to England shall be treated, by virtue of his approval, as approved in relation to Wales too are where—

- (a) the approved clinician is acting in respect of a patient who is liable to be detained in accordance with the provisions of the Act or is subject to a community treatment order,
- (b) the patient is in Wales, and
- (c) the patient’s relevant hospital is in England.

(2) The circumstances in which a person who is approved to act as an approved clinician in relation to Wales shall be treated, by virtue of his approval, as approved in relation to England too are where—

(a) 1983 c.20. Section 142A was inserted by section 17 of the Mental Health Act 2007 (c.12).
(b) Section 12(2A) was inserted by section 16 of the Mental Health Act 2007.

- (a) the approved clinician is acting in respect of a patient who is liable to be detained in accordance with the provisions of the Act or is subject to a community treatment order,
 - (b) the patient is in England, and
 - (c) the patient’s relevant hospital is in Wales.
- (3) In this regulation, “relevant hospital”—
- (a) in respect of a patient liable to be detained, means the hospital in which the patient is liable to be detained in accordance with the provisions of the Act;
 - (b) in respect of a patient subject to a community treatment order, has the same meaning as “the responsible hospital”(a).

Guardianship

4.—(1) In relation to a patient subject to guardianship, the circumstances in which a responsible local social services authority in England may treat a person who is approved to act as an approved clinician in relation to Wales as approved in relation to England in order to authorise that person to be the patient’s responsible clinician are where—

- (a) the patient is in Wales, or
- (b) the patient receives medical treatment for mental disorder in Wales.

(2) In relation to a patient subject to guardianship, the circumstances in which a responsible local social services authority in Wales may treat a person who is approved to act as an approved clinician in relation to England as approved in relation to Wales in order to authorise that person to be the patient’s responsible clinician are where—

- (a) the patient is in England, or
- (b) the patient receives medical treatment for mental disorder in England.

(3) In relation to a patient subject to guardianship, the circumstances in which a person approved to act as an approved clinician in England shall be treated as approved to act as an approved clinician in relation to Wales are where—

- (a) that approved clinician has been authorised to act as the patient’s responsible clinician by the patient’s responsible local social services authority in England, and
- (b) that approved clinician is acting in respect of a patient who is in Wales.

(4) In relation to a patient subject to guardianship, the circumstances in which a person approved to act as an approved clinician in Wales shall be treated as approved to act as an approved clinician in relation to England are where—

- (a) that approved clinician has been authorised to act as the patient’s responsible clinician by the patient’s responsible local social services authority in Wales, and
- (b) that approved clinician is acting in respect of a patient who is in England.

(5) In this regulation, “responsible local social services authority” has the same meaning as in section 34(3) of the Act(b).

(a) See section 17A of the Act which was inserted by section 32(2) of the Mental Health Act 2007.

(b) Reference is made as to where this definition may be found because section 34(3) of the Act only applies to Part II of the Act, whereas the power under which these Regulations are made is in Part X.

Signed by authority of the Secretary of State for Health.

28th April 2008

Ivan Lewis
Parliamentary Under-Secretary of State,
Department of Health

28th April 2008

Edwina Hart
Minister for Health and Social Services,
one of the Welsh Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set out the circumstances in which a practitioner approved in England for the purposes of section 12 of the Mental Health Act 1983(c.20) (“the Act”) or a person approved in relation to England to act as an approved clinician for the purposes of the Act may be treated as approved in relation to Wales by virtue of that approval, and vice versa. They apply where a patient is liable to be detained, subject to a community treatment order or subject to guardianship under the Act.

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

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