

Draft Regulations laid before Parliament under section 52(5)(b) of the Mental Health (Wales) Measure 2010, for approval by resolution of the National Assembly for Wales.

DRAFT WELSH STATUTORY INSTRUMENTS

2011 No. (W.)

MENTAL HEALTH, WALES

**The Mental Health (Assessment of Former Users of Secondary
Mental health Services) (Wales) Regulations 2011**

EXPLANATORY NOTE

(This note is not part of the Regulations)

[To be completed after consultation]

DRAFT WELSH STATUTORY INSTRUMENTS

2011 No.

MENTAL HEALTH, WALES

The Mental Health (Assessment of Former Users of Secondary Mental Health Services) (Wales) Regulations 2011

Made

[date to be inserted (2011)]

Coming into force

[date to be inserted (2011/12)]

The Welsh Ministers make these Regulations in exercise of the powers conferred by sections 23(1)(b), 26(2)(b), 29(1) and 52(2) of the Mental Health (Wales) Measure 2010⁽¹⁾.

A draft of this instrument has been laid before the National Assembly for Wales in accordance with section 52(5)(b) of the Measure, and approved by resolution of the National Assembly for Wales.

Title, commencement and application

1.—(1) The title of these Regulations is the Mental Health (Assessment of Former Users of Secondary Mental Health Services) (Wales) Regulations 2011 and they come into force on [date to be inserted] 2011.

(2) These Regulations apply in relation to Wales.

Interpretation

2. In these Regulations —

“assessment report” means a single report in writing which records whether a mental health assessment has identified any services described in section 25 of the Measure which might improve or prevent a deterioration in the mental health of a person;

“the Measure” means the Mental Health (Wales) Measure 2010;

“mental health assessment” means an assessment of an adult’s mental health as described in section 25 of the Measure;

“relevant discharge period” means the period within which an adult may request that a mental health assessment is carried out following discharge from secondary mental health services;

“relevant local mental health partner” and related expressions means, in relation to an adult, a local mental health partner for the local authority area in which the adult is, or is deemed to be, usually resident; and

(1) 2010 nawm 7.

“working day” means any day except Saturday, Sunday, Christmas Day, Good Friday or a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971⁽¹⁾.

Relevant Discharge Period

3.—(1) The relevant discharge period begins on the date on which an adult is discharged from secondary mental health services and ends upon the expiry of a period of three years.

(2) But if an adult was discharged from secondary mental health services prior to the date of the coming into force of these Regulations, the relevant discharge period for the adult is as provided in regulation 6(3).

Provision of assessment report

4.—(1) A copy of the assessment report is to be provided to an adult who has been assessed within ten working days following the completion of the assessment.

(2) For the purposes of this regulation, the assessment report is provided on the day when it is —

- (a) delivered by hand to the adult; or
- (b) sent by prepaid first class post addressed to the adult at the adult's usual or last known residence.

Determination of usual residence

5.—(1) Where —

- (a) a local authority (“local authority A”) and a Local Health Board (“Local Health Board A”) are the local mental health partners for a local authority area (“local authority area A”); and
- (b) there is a question as to whether an adult’s usual residence lies within local authority area A;

then local authority A is responsible for determining within which local authority area the adult usually resides.

(2) For the purposes of making a determination as provided in paragraph (1), local authority A must deem the adult as being usually resident —

- (a) at the address given by the adult as being that at which he or she usually resides;
- (b) where the adult gives no address under sub-paragraph (a), at the address which he or she gives as being his or her most recent address; or
- (c) where the adult's usual residence cannot be determined under sub-paragraphs (a) or (b) above, in the area in which he or she is present.

(3) Until such time as a determination of the adult’s usual residence is made under paragraph (1), the adult is deemed to be usually resident within local authority area A.

(4) But where another local authority (“local authority B”) and any Local Health Board (“Local Health Board B”) which are the local mental health partners for another local authority area (“local authority area B”) agree to act as the local mental health partners for the adult in place of the local mental health partners for local authority area A, then the adult is deemed to be usually resident within local authority area B.

(5) For the purposes of this regulation the same Local Health Board may be identified as Local Health Board A and Local Health Board B.

(1) 1971 c. 80.

Transitional provisions relating to the relevant discharge period

6.—(1) Where an adult has been discharged from secondary mental health services within five years prior to the date of the coming into force of these Regulations and is eligible for a mental health assessment under section 22 of the Measure, then the transitional provisions of this regulation apply.

(2) An adult under paragraph (1) includes an adult who was discharged from secondary mental health services while under the age of eighteen years, but who has attained that age during the relevant discharge period.

(3) The term of the relevant discharge period is —

- (a) in the case of an adult who was discharged from secondary mental health services more than two years prior to the date of the coming into force of these Regulations, one year from the coming into force date;
- (b) in the case of an adult who was discharged from secondary mental health services two years or less from the date of the coming into force of these Regulations, three years from the date of discharge.

Edwina Hart

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

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