WELSH STATUTORY INSTRUMENTS

2008 No. 2436 (W.209)

MENTAL HEALTH, WALES

The Mental Health (Approval of Persons to be Approved Mental Health Professionals) (Wales) Regulations 2008

Made - - - -	*15 September 2008*
Laid before the National Assembly for Wales - -	*17 September 2008*
Coming into force - -	*3 November 2008*

The Welsh Ministers, in exercise of the powers conferred upon them by section 114 of the Mental Health Act 1983(**1**), hereby make the following Regulations:

Title, commencement and application

1.—(1) The title of these Regulations is the Mental Health (Approval of Persons to be Approved Mental Health Professionals) (Wales) Regulations 2008 and they come into force on 3 November 2008.

(2) These Regulations apply in relation to Wales.

Interpretation

2. In these Regulations—

"the Act" ("*y Ddeddf*") means the Mental Health Act 1983;

"AMHP" ("*GPIMC*") means an approved mental health professional;

except in the context of regulation 3, "approve" ("*cymeradwyo*") and "approval" ("*cymeradwyaeth*") include "re-approve" ("*ail gymeradwyo*") and "re-approval" ("*ail gymeradwyaeth*");

"approving LSSA" ("*AGCLl sy'n cymeradwyo*") means the LSSA that has approved the person to be an AMHP;

"Care Council for Wales" ("*Cyngor Gofal Cymru*") has the meaning given by section 54(1) of the Care Standards Act 2000(**2**);

"LSSA" ("*AGCLl*") means a local social services authority in Wales;

(**1**) 1983 c. 20. Section 114 was substituted by section 18 of the Mental Health Act 2007 (c. 12). The Secretary of State has issued separate regulations in relation to England.
(**2**) 2000 c. 14.

"professional requirements" ("*gofynion proffesiynol*") means the requirements set out in Schedule 1;

"relevant competencies" ("*cymwyseddau perthnasol*") means the skills set out in Schedule 2.

Granting approval

3.—(1) Subject to paragraph (2), an LSSA may only grant approval to a person to be an AMHP, where that person is not already approved as an AMHP under these Regulations, or has not been so approved within the previous five years, if that person–

(a) fulfils the professional requirements;

(b) is able to demonstrate that he or she possesses the relevant competencies; and

(c) has completed within the last two years a course for the initial training of AMHPs approved by the Care Council for Wales.

(2) An LSSA may only approve a person to be an AMHP, where the person is not already approved as an AMHP under these Regulations, but is approved to act in relation to England, or has been so approved within the previous five years if that person–

(a) fulfils the professional requirements; and

(b) is able to demonstrate that he or she possesses the relevant competencies such as will enable that person to act within Wales, or if not, completes such course as the approving LSSA deems necessary to enable him or her to do so.

(3) In determining whether a person seeking approval as an AMHP possesses the relevant competencies as required under paragraphs (1)(b) or (2)(b) above, the LSSA must have regard to the references of that person.

Period of approval

4. Subject to regulation 5, an LSSA may approve a person to be an AMHP for a period of up to five years.

End of approval

5.—(1) Subject to paragraph (2) below, the approval of an AMHP will cease as soon as the period of the approval has expired.

(2) The approval of a person as an AMHP will cease before the period of approval has expired in the following circumstances—

(a) if that person ceases to carry out functions as an AMHP on behalf of the approving LSSA;

(b) if that person fails to meet any of the conditions attached to his or her approval in accordance with regulation 7;

(c) if, in the opinion of the approving LSSA, that person no longer possesses the relevant competencies;

(d) if that person no longer fulfils the professional requirements;

(e) if that person becomes approved as an AMHP by another LSSA;

(f) if that person makes a written request for cessation of approval.

(3) Following the end of an approval, the approving LSSA must notify that fact to any other LSSA for whom it knows that person has agreed to act as an AMHP.

(4) If the approval of a person as an AMHP ends in the circumstance provided in paragraph (2)(e) above, the new approving LSSA must notify that fact to the previous approving LSSA.

(5) Where an approving LSSA ends the approval of an AMHP under paragraph (2), that LSSA must immediately notify that person in writing of the date of the ending of and the reasons for ending that approval.

Suspension of or Conditions attaching to Registration

6.—(1) If at any time after being approved, an AMHP's registration or listing in accordance with fulfilment of the professional requirements as required under regulation 3(1) is suspended, the approving LSSA must suspend that person's approval for the duration of the suspension of his or her registration or listing.

(2) In the event of conditions being attached to an AMHP's registration or listing, as the case may be, the LSSA may attach such conditions to the approval as it may deem necessary, or it may suspend the approval.

(3) Where the suspension of approval has ended, the approval will continue to run for any unexpired period of approval, unless the approving LSSA ends it earlier in accordance with regulation 5.

Conditions of Approval

7. Any approval is subject to the following conditions—

(a) the AMHP must complete whilst he or she remains approved such training as required by the approving LSSA, at such intervals as determined by the LSSA as being necessary;

(b) the AMHP must provide evidence to the reasonable satisfaction of the approving LSSA, at no less than annual intervals of the date of his or her approval, that he or she continues to have appropriate competence to carry out functions as an AMHP;

(c) the AMHP must notify the approving LSSA in writing as soon as reasonably practicable if he or she agrees to carry out duties as an AMHP on behalf of another LSSA, and when such agreement ends;

(d) the AMHP must notify the approving LSSA, in writing as soon as reasonably practicable, if the AMHP is approved by a different LSSA;

(e) the AMHP must notify the approving LSSA immediately if he or she no longer meets any of the requirements set out in regulation 3 or regulation 8 as the case may be;

(f) the AMHP must notify the approving LSSA immediately in the event of him or her being suspended from registration or listing, as the case may be, or having conditions attached to the same.

Reapproval

8.—(1) An LSSA may grant approval of a person who has previously been approved within Wales, such approval having been in force within the previous five years prior to the proposed date of reapproval, in accordance with these Regulations where that person–

(a) fulfils the professional requirements; and

(b) is able to demonstrate that he or she possesses the relevant competencies.

(2) In determining whether the person seeking approval as an AMHP possesses the relevant competencies as required under paragraph (1)(b) above, the LSSA must have regard to the references of that person.

Monitoring and Records

9.—(1) The approving LSSA must keep a record of all persons that it approves as AMHPs, including–

(a) their names;

(b) their professions;

(c) the dates of approval;

(d) the periods for which approval is given;

(e) details of completion of any training referred to in regulation 7(a);

(f) evidence provided to it by the AMHPs under regulation 7(b);

(g) names of other LSSAs for whom such persons act as an AMHPs;

(h) any details of the ending or suspension of approval, or conditions attached to the same.

(2) The approving LSSA must keep the records referred to in paragraph 1 above relating to persons approved by it as AMHPs for three years following the ending of such persons' approval.

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

15 September 2008