

Explanatory Memorandum Mental Health (Conflict of Interest) (Wales) Regulations 2008

This Explanatory Memorandum has been prepared by the Mental Health, Vulnerable Groups and Offenders Branch of the Department for Health and Social Services and is laid before the National Assembly for Wales in accordance with Standing Order 24.1

- i. **Description** – These Regulations set out the circumstances in which there is a potential conflict of interest such that an Approved Mental Health Professional cannot make an application mentioned in section 11(1) of the Mental Health Act 1983, or a registered medical practitioner cannot make a medical recommendation under section 12(1) for the purposes of an application for a person to be admitted under the Act.
- ii. **Matters of special interest to the Subordinate Legislation Committee** – None
- iii. **Legislative Background** – The Welsh Ministers have the required powers under section 12A of the Mental Health Act 1983. This Statutory Instrument follows the negative procedure.
- iv. **Purpose and intended effect of legislation** – These Regulations will prevent professionals who undertake a formal assessment under the Mental Health Act 1983 from acting where they may be in conflict with one or both of the other assessors. Such conflicts may arise through personal, professional, business or financial relationships.
- v. **Implementation** – It is intended these Regulations should come into force on 3 November 2008. Parallel legislation is also being made to come into force in England on the same day.
- vi. **Consultation** – These Regulations were subject to consultation between 5 November 2008 and 28 January 2008, as part of a wider consultation on six statutory instruments relating to the Mental Health Act 1983.

During this period workshops, study days and consultation events were held, and support was also given to Mind Cymru to run eleven workshops with service users and carers.

25 written responses to the consultation document were received, from a variety of stakeholders, including service user representative bodies, NHS organisations, local authorities and professional bodies.

- vii. **Regulatory Impact Assessment** – A full impact assessment has not been produced for this instrument as no significant impact on the private or voluntary sector is foreseen. Also a full Regulatory Impact Assessment for the Mental Health Act 2007 was prepared by the Department of Health (June 2007).