

SCHEDULE

TRANSITIONAL AND SAVING PROVISIONS

Interpretation

1. In this Schedule—

“ASW” means an approved social worker as defined in section 145(1) of the 1983 Act immediately before the commencement day;

“AMHP” means an approved mental health professional;

“commencement day” means 3rd November 2008;

“LSSA” means a local social services authority;

“responsible clinician” means a responsible clinician as defined in section 34(1) in relation to Part 2 of the 1983 Act and in section 55(1) in relation to Part 3 of the 1983 Act;

“RMO” means a responsible medical officer as defined in section 34(1) in relation to Part 2 of the 1983 Act and in section 55(1) in relation to Part 3 of the 1983 Act immediately before the commencement day;

“RMP” means a registered medical practitioner;

“the Approval Regulations” means the Mental Health (Approved Mental Health Professionals) (Approval) (England) Regulations 2008(1);

“under 18 informal patient” means a person to whom section 56(5) of the 1983 Act applies.

Supervised Community Treatment: transitional provisions in relation to amendment to other Acts

2.—(1) Pending the commencement of Part 3 of the Constitutional Reform Act 2005(2), the application of the 2007 Act shall be modified as described in this paragraph.

(2) In the provisions specified in sub-paragraph (3), for “Supreme Court” in each place substitute “House of Lords”.

(3) The provisions mentioned in sub-paragraph (2) are—

(a) section 5A(6) of the Administration of Justice Act 1960(3), as inserted by paragraph 1 of Schedule 4 to the 2007 Act;

(b) section 37A(1), (4) and (7) of the Criminal Appeal Act 1968(4), as inserted by paragraph 2(3) of Schedule 4 to the 2007 Act;

(c) section 43A (3) and (6) of the Courts-Martial (Appeals) Act 1968(5), as inserted by paragraph 3(4) of Schedule 4 to the 2007 Act.

3.—(1) Pending the commencement of paragraph 21(d) and (f) of Schedule 8 to the Armed Forces Act 2006(6), the application of the 2007 Act shall be modified as described in sub-paragraph (2).

(2) In section 20(4A) of the Courts-Martial (Appeals) Act 1968, as inserted by paragraph 3(2) of Schedule 4 to the 2007 Act, for “subsection (3A)” substitute “subsection (5)”.

(1) S.I. 2008/1206.

(2) 2005 c.4.

(3) 1960 c.65.

(4) 1968 c.19.

(5) 1968 c.20.

(6) 2006 c.52.

Status: This is the original version (as it was originally made).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

(3) Pending the commencement of paragraph 43 of Schedule 8 to the Armed Forces Act 2006, the application of the 2007 Act shall be modified as described in sub-paragraph (4).

(4) In section 43A(1)(b) of the Courts-Martial (Appeals) Act 1968, as inserted by paragraph 3(4) of Schedule 4 to the Act, for “Director of Service Prosecutions” substitute “Defence Council”.

AMHPs: general

4. Subject to paragraphs 6 to 11, where a person is approved as an ASW by an LSSA in England immediately before the commencement day, that person shall be treated as an AMHP approved by that LSSA in relation to England (“an English approval”).

5. Any decision made or action taken by an ASW before the commencement day shall be treated as made or taken by an AMHP.

AMHPs approved in relation to England

6. Subject to regulation 7 of the Approval Regulations, an English approval shall be for the unexpired period of that person’s approval as an ASW.

7. Regulation 7 of the Approval Regulations shall apply to an English approval as if paragraph 2(b) of that regulation read—

“(b) if it is not satisfied that the AMHP has appropriate competence taking into account the matters set out in Schedule 2;”.

8. An English approval shall be subject to the conditions set out in regulation 5 of the Approval Regulations.

9. Any ASW whose registration as a social worker is suspended on the commencement day shall be treated as an AMHP whose approval is suspended in accordance with regulation 6 of the Approval Regulations for so long as that registration is suspended.

10. An English approval may be suspended in accordance with regulation 6 of the Approval Regulations.

11. An LSSA in England shall record details of an English approval in accordance with regulation 8 of the Approval Regulations, as if paragraph (1)(c) of that regulation read—

“(c) the date that the person was approved as an ASW, and the date on which that approval expires;”.

Approved clinicians and responsible clinicians

12. On the commencement day a decision made or action taken under the Part of, or section of, the 1983 Act specified in column 1 by a person named in column 2, shall be treated as though it had been made or taken by the person specified in column 3—

<i>Provision in 1983 Act</i>	<i>Named person</i>	<i>Treated as taken by</i>
Part 2	RMO	responsible clinician
Part 2	appropriate medical officer	appropriate practitioner
Sections 36(4), 38(5), 41(3)(c) and (6), 45B(3), 49(3), 51(4), 52(5) and (7)	RMO	responsible clinician

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<i>Provision in 1983 Act</i>	<i>Named person</i>	<i>Treated as taken by</i>
Sections 57(2)(a) and 58(3)(b)	RMO	responsible clinician or the approved clinician in charge of the treatment in question
Sections 58(3)(a), 61(1) (the first time it appears) and 63	RMO	approved clinician in charge of the treatment
Section 35(4) and (5)	RMP	approved clinician
Sections 36(3), 37(4), 38(4),45A(5)	RMP who would be in charge of his treatment	approved clinician who would have overall responsibility for his case
Section 44(2)	RMP who would be in charge of the offender’s treatment	approved clinician who would have overall responsibility for the offender’s case
Sections 50(1), 51(3) and 53(2)	RMO or any other RMP	responsible clinician or any other approved clinician
Section 134	RMP in charge of the treatment of the patient	approved clinician with overall responsibility for the patient’s case

Electro-convulsive therapy

13. Where before the commencement day, an under 18 informal patient has been receiving, or is about to receive, electro-convulsive therapy, that patient may receive, or continue to receive, such treatment pending compliance with section 58A of the 1983 Act for a period of up to 14 days beginning with the commencement day.