



Mental Health Act 2007

CHAPTER 12

MENTAL HEALTH ACT 2007

PART 1

AMENDMENTS TO MENTAL HEALTH ACT 1983

CHAPTER 1

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- 1 Removal of categories of mental disorder
- 2 Learning disability
- 3 Changes to exclusions from operation of 1983 Act

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- 4 Replacement of “treatability” and “care” tests with appropriate treatment test
- 5 Further cases in which appropriate treatment test is to apply

Medical treatment

- 6 Appropriate treatment test in Part 4 of 1983 Act
- 7 Change in definition of “medical treatment”

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- 8 The fundamental principles

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- 9 Amendments to Part 2 of 1983 Act
- 10 Amendments to Part 3 of 1983 Act
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- 12 Amendments to Part 4 of 1983 Act
- 13 Amendments to Part 5 of 1983 Act
- 14 Amendments to other provisions of 1983 Act
- 15 Amendments to other Acts
- 16 Certain registered medical practitioners to be treated as approved under section 12 of 1983 Act
- 17 Regulations as to approvals in relation to England and Wales

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- 18 Approved mental health professionals
- 19 Approval of courses etc for approved mental health professionals
- 20 Amendment to section 62 of Care Standards Act 2000
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- 31 Accommodation, etc.

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Status: This is the original version (as it was originally enacted).

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SCHEDULE 1 — Categories of mental disorder: further amendments etc

Part 1 — AMENDMENTS TO 1983 ACT

- 1 The 1983 Act is amended as follows.
- 2 In section 3(2) (grounds for application for admission for treatment),...
- 3 In section 7(2) (grounds for guardianship application), in paragraph (a),...
- 4 In section 20 (renewal of detention or guardianship)—
- 5 In section 35(3) (conditions for exercise of power to remand...
- 6 In section 36(1) (conditions for exercise of power to remand...
- 7 In section 37 (power to order hospital admission or guardianship)—...
- 8 In section 38(1) (conditions for exercise of power to make...
- 9 In section 45A(2) (conditions for exercise of power to direct...
- 10 In section 47(1) (power to make transfer direction), in paragraph...
- 11 In section 48 (further power to make transfer direction)—
- 12 In section 51(6) (further power to make hospital order), in...
- 13 In section 66(2) (time limits for applications to tribunals), in...
- 14 In section 72 (powers of tribunals)— (a) in subsection (1)(b)(i),...
- 15 (1) Section 86 (application of power to remove alien patients)...
- 16 (1) Section 141 (Members of Parliament etc) is amended as...
- 17 In section 145(1) (interpretation), for the definitions of “mental disorder”,...

Part 2 — AMENDMENTS TO OTHER ACTS

- 18 Juries Act 1974
- 19 Contempt of Court Act 1981
- 20 Family Law Act 1996
- 21 Housing Act 1996
- 22 Care Standards Act 2000
- 23 Mental Capacity Act 2005
- 24 National Health Service Act 2006
- 25 National Health Service (Wales) Act 2006

26 Police and Justice Act 2006

SCHEDULE 2 — Approved mental health professionals: further amendments to 1983 Act

- 1 The 1983 Act is amended as follows.
- 2 In the following provisions, for “approved social worker” substitute “approved...”
- 3 (1) Section 10 (transfer of guardianship) is amended as follows....
- 4 (1) Section 11 (general provisions as to applications) is amended...
- 5 (1) Section 13 (the title to which becomes “Duty of...
- 6 In section 14 (social reports), for “a social worker” substitute...
- 7 In the following provisions, for “approved social worker” substitute “approved...”
- 8 For section 115 substitute— Powers of entry and inspection (1) An approved mental health professional may at all reasonable...
- 9 In section 118(1)(a) (application of code of practice), for “approved...”
- 10 In the following provisions, for “approved social worker” substitute “approved...”
- 11 (1) Section 145 (interpretation) is amended as follows.

SCHEDULE 3 — Supervised community treatment: further amendments to 1983 Act

- 1 The 1983 Act is amended as follows.
- 2 Application in respect of patient already in hospital
- 3 Return of patients absent without leave
- 4 Assignment of responsibility for community patients
- 5 Renewal of authority to detain patients
- 6 Special provisions as to patients absent without leave
- 7 In section 21A (patients who are taken into custody or...
- 8 (1) Section 21B (patients who are taken into custody or...
- 9 Patients sentenced to imprisonment etc
- 10 Discharge
- 11 (1) Section 24 (visiting and examination of patients) is amended...
- 12 (1) Section 25 (restrictions on discharge by nearest relative) is...
- 13 Orders appointing acting nearest relative
- 14 (1) Section 30 (discharge and variation of orders under section...
- 15 Regulations for purposes of Part 2
- 16 Wards of court
- 17 Restricted patients
- 18 Applications and references to Mental Health Review Tribunal
- 19 In section 67 (references to tribunals by Secretary of State...
- 20 In section 69 (applications to tribunals concerning patients subject to...
- 21 (1) Section 72 (powers of tribunals) is amended as follows....
- 22 In section 76 (visiting and examination of patients), in subsection...
- 23 In section 77 (general provisions concerning tribunal applications), in subsection...
- 24 After-care services
- 25 Code of practice
- 26 General protection of detained patients
- 27 In section 121 (Mental Health Act Commission), in subsection (4),...
- 28 Offences
- 29 Duty to give information
- 30 After section 132 insert— Duty of managers of hospitals to...

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- 31 In section 133 (duty of managers of hospitals to inform...
- 32 Retaking of patients escaping from custody
- 33 Members of Parliament suffering from mental disorder
- 34 Interpretation
- 35 Extent
- 36 Application of certain provisions to patients concerned in criminal proceedings
- 37 (1) Part 2 of that Schedule (patients subject to special...

SCHEDULE 4 — Supervised community treatment: amendments to other Acts

- 1 Administration of Justice Act 1960
- 2 Criminal Appeal Act 1968
- 3 Courts-Martial (Appeals) Act 1968
- 4 Juries Act 1974

SCHEDULE 5 — Cross-border arrangements

Part 1 — AMENDMENTS TO PART 6 OF 1983 ACT

- 1 Introduction
- 2 Transfer of patients: Scotland
- 3 (1) After that section insert— Transfer of responsibility for community...
- 4 (1) After section 80A (the title to which becomes “Transfer...
- 5 Transfer of patients: Northern Ireland
- 6 After that section insert— Removal of community patients to Northern...
- 7 (1) Section 81A (transfer of responsibility for patients to Northern...
- 8 In section 82 (removal to England and Wales of patients...
- 9 In section 82A (the title to which becomes “Transfer of...
- 10 Transfer of patients: Channel Islands and Isle of Man
- 11 In section 85 (patients removed from Channel Islands or Isle...
- 12 Before section 85A (the title to which becomes “Responsibility for...
- 13 (1) Section 85A is amended as follows.
- 14 Patients absent from hospitals in England and Wales
- 15 Regulations for purposes of Part 6
- 16 General provisions as to patients removed from England and Wales
- 17 Interpretation

Part 2 — RELATED AMENDMENTS

- 18 The 1983 Act
- 19 (1) Section 79 of that Act (interpretation of Part 5)...
- 20 (1) In section 146 (application to Scotland), omit the words...
- 21 Mental Health (Care and Treatment) (Scotland) Act 2003
(Consequential Provisions) Order 2005 (S.I. 2005/2078)

SCHEDULE 6 — Victims' rights

- 1 Introduction
- 2 Hospital orders (with or without restriction orders)
- 3 After section 36 insert— Supplemental provision for case where no...
- 4 In section 37 (the title to which becomes “Representations where...
- 5 After section 37 insert— Representations where restriction order not made...
- 6 In section 38 (the title to which becomes “Information where...
- 7 After section 38 insert — Information where restriction order not...
- 8 Hospital directions and limitation directions

- 9 After section 41 insert— Removal of restriction (1) This section applies if, in a case where section...
- 10 Transfer directions (with or without restriction directions)
- 11 After section 42 insert— Supplemental provision for case where no...
- 12 In section 43 (the title to which becomes “Representations where...
- 13 After section 43 insert— Representations where restriction direction not given...
- 14 In section 44 (the title to which becomes “Information where...
- 15 After section 44 insert — Information where restriction direction not...
- 16 Interpretation

SCHEDULE 7 — Mental Capacity Act 2005: new Schedule A1

SCHEDULE 8 — Mental Capacity Act 2005: new Schedule 1A

SCHEDULE 9 — Amendments relating to new section 4A of, & Schedule A1 to, Mental Capacity Act 2005

Part 1 — OTHER AMENDMENTS TO MENTAL CAPACITY ACT 2005

- 1 Introduction
 - 2 New section 21A
 - 3 Section 35: Appointment of independent mental capacity advocates
 - 4 Section 38: IMCAs and provision of accommodation by NHS body
 - 5 Section 39: IMCAs and provision of accommodation by local authority
 - 6 New section 39A
 - 7 Section 40: Exceptions to duty to appoint IMCAs
 - 8 Section 42: Codes of practice
 - 9 Section 50: Application to the Court of Protection
 - 10 Section 64: Interpretation
 - 11 Section 65: Rules, regulations and orders
- Part 2 — AMENDMENTS TO OTHER ACTS
- 12 National Assistance Act 1948 (c. 29)
 - 13 Local Authority Social Services Act 1970 (c. 42)

SCHEDULE 10 — Transitional provisions and savings

- 1 Interpretation
- 2 Authority to detain etc
- 3 Consent to treatment
- 4 Reclassification of patients
- 5 Supervised community treatment
- 6 Nearest relative
- 7 (1) If, by virtue of section 26 (civil partners) coming...
- 8 Independent mental health advocates
- 9 Applications and references to Mental Health Review Tribunal

SCHEDULE 11 — Repeals and revocations

- Part 1 — REMOVAL OF CATEGORIES OF MENTAL DISORDER
- Part 2 — REPLACEMENT OF “TREATABILITY” AND “CARE” TESTS
- Part 3 — APPROVED CLINICIANS AND RESPONSIBLE CLINICIANS
- Part 4 — SAFEGUARDS FOR PATIENTS
- Part 5 — SUPERVISED COMMUNITY TREATMENT
- Part 6 — ORGANISATION OF TRIBUNALS
- Part 7 — CROSS-BORDER ARRANGEMENTS
- Part 8 — RESTRICTED PATIENTS

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Part 9 — MISCELLANEOUS
Part 10 — DEPRIVATION OF LIBERTY