



# Mental Health Act 2007

## 2007 CHAPTER 12

### PART 1

#### AMENDMENTS TO MENTAL HEALTH ACT 1983

#### CHAPTER 1

##### CHANGES TO KEY PROVISIONS

##### *Tests for detention etc*

#### **4 Replacement of “treatability” and “care” tests with appropriate treatment test**

- (1) The 1983 Act is amended as follows.
- (2) In section 3 (admission for treatment)—
  - (a) in subsection (2), omit paragraph (b) (and the word “and” at the end of that paragraph),
  - (b) in that subsection, after paragraph (c) insert “; and
  - (d) appropriate medical treatment is available for him.”, and
  - (c) in subsection (3)(a), for “(b)” substitute “(d)”.
- (3) In that section, after subsection (3) insert—
  - “(4) In this Act, references to appropriate medical treatment, in relation to a person suffering from mental disorder, are references to medical treatment which is appropriate in his case, taking into account the nature and degree of the mental disorder and all other circumstances of his case.”
- (4) In section 20 (renewal of authority to detain), in subsection (4)—
  - (a) omit paragraph (b) (and the word “and” at the end of that paragraph),
  - (b) after paragraph (c) insert “and
  - (d) appropriate medical treatment is available for him.”, and

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*Changes to legislation: There are currently no known outstanding effects for the Mental Health Act 2007, Cross Heading: Tests for detention etc. (See end of Document for details)*

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- (c) omit the words from “but, in the case of mental illness” to the end.
- (5) In section 37(2) (conditions for exercise of powers of court to order hospital admission or guardianship), in paragraph (a)(i), for the words from “, in the case of psychopathic disorder” to the end substitute “ appropriate medical treatment is available for him; or ”.
- (6) In section 45A(2) (conditions for exercise of powers of court to direct hospital admission), for paragraph (c) substitute—
  - “(c) that appropriate medical treatment is available for him.”
- (7) In section 47(1) (conditions for exercise of Secretary of State's powers to direct removal to hospital), in paragraph (b), for the words from “and, in the case of psychopathic disorder” to the end substitute “; and
  - (c) that appropriate medical treatment is available for him;”.
- (8) In section 72—
  - (a) in subsection (1)(b) (powers of tribunal to direct discharge of patient not liable to be detained under section 2), after sub-paragraph (ii) insert—
    - “(iia) that appropriate medical treatment is available for him; or”, and
  - (b) omit subsection (2).
- (9) In section 73(1) (powers of tribunal to direct discharge of restricted patients), in paragraph (a), for “or (ii)” substitute “, (ii) or (iia) ”.
- (10) In section 145 (interpretation), after subsection (1AA) insert—
  - “(1AB) References in this Act to appropriate medical treatment shall be construed in accordance with section 3(4) above.”

## **5 Further cases in which appropriate treatment test is to apply**

- (1) The 1983 Act is amended as follows.
- (2) In section 36(1) (remand to hospital for treatment) after paragraph (a) (inserted by Schedule 1 to this Act) insert “and
  - (b) appropriate medical treatment is available for him.”
- (3) In section 48(1) (removal to hospital of immigration detainees etc) after paragraph (b) (inserted by Schedule 1 to this Act) insert “and
  - (c) appropriate medical treatment is available for him;”.
- (4) In section 51(6)(a) (further power to make hospital order) after sub-paragraph (i) (inserted by Schedule 1 to this Act) insert “and
  - (ii) appropriate medical treatment is available for him; and”.

**Changes to legislation:**

There are currently no known outstanding effects for the Mental Health Act 2007, Cross  
Heading: Tests for detention etc.