

SCHEDULES

SCHEDULE 1

Section 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), in paragraph (a), for “mental illness, severe mental impairment, psychopathic disorder or mental impairment and his mental disorder is” substitute “mental disorder”.
- 3 In section 7(2) (grounds for guardianship application), in paragraph (a), omit the words “, being mental illness, severe mental impairment, psychopathic disorder or mental impairment and his mental disorder is”.
- 4 In section 20 (renewal of detention or guardianship)—
 - (a) in subsection (4)(a), for “mental illness, severe mental impairment, psychopathic disorder or mental impairment, and his mental disorder is” substitute “mental disorder”, and
 - (b) in subsection (7)(a), for “mental illness, severe mental impairment, psychopathic disorder or mental impairment and his mental disorder is” substitute “mental disorder”.
- 5 In section 35(3) (conditions for exercise of power to remand accused to hospital for report), in paragraph (a), for “mental illness, psychopathic disorder, severe mental impairment or mental impairment” substitute “mental disorder”.
- 6 In section 36(1) (conditions for exercise of power to remand accused to hospital for medical treatment), for the words from “he is suffering” to the end substitute—
 - “(a) he is suffering from mental disorder of a nature or degree which makes it appropriate for him to be detained in a hospital for medical treatment;”.
- 7 In section 37 (power to order hospital admission or guardianship)—
 - (a) in subsection (2)(a), for “mental illness, psychopathic disorder, severe mental impairment or mental impairment” substitute “mental disorder”, and
 - (b) in subsection (3), omit the words “as being a person suffering from mental illness or severe mental impairment”.
- 8 In section 38(1) (conditions for exercise of power to make interim hospital order), in paragraph (a), for “mental illness, psychopathic disorder, severe mental impairment or mental impairment” substitute “mental disorder”.

Status: This is the original version (as it was originally enacted).

- 9 In section 45A(2) (conditions for exercise of power to direct hospital admission), in paragraph (a), for “psychopathic disorder” substitute “mental disorder”.
- 10 In section 47(1) (power to make transfer direction), in paragraph (a), for “mental illness, psychopathic disorder, severe mental impairment or mental impairment” substitute “mental disorder”.
- 11 In section 48 (further power to make transfer direction)—
- (a) in subsection (1), for the words from “that person is suffering” to “such treatment,” substitute—
 - “(a) that person is suffering from mental disorder of a nature or degree which makes it appropriate for him to be detained in a hospital for medical treatment; and
 - (b) he is in urgent need of such treatment;”, and
 - (b) in subsection (3), for “to (4)” substitute “and (3)”.
- 12 In section 51(6) (further power to make hospital order), in paragraph (a), for the words from “the detainee” to the end substitute—
- “(i) the detainee is suffering from mental disorder of a nature or degree which makes it appropriate for the patient to be detained in a hospital for medical treatment;”.
- 13 In section 66(2) (time limits for applications to tribunals), in paragraph (d), for “in the cases mentioned in paragraphs (d), (fb), (g)” substitute “in the case mentioned in paragraph (g)”.
- 14 In section 72 (powers of tribunals)—
- (a) in subsection (1)(b)(i), for “mental illness, psychopathic disorder, severe mental impairment or mental impairment or from any of those forms of disorder” substitute “mental disorder or from mental disorder”,
 - (b) in subsection (4)(a), for “mental illness, psychopathic disorder, severe mental impairment or mental impairment” substitute “mental disorder”, and
 - (c) in subsection (6), for “(5)” substitute “(4)”.
- 15 (1) Section 86 (application of power to remove alien patients) is amended as follows.
- (2) In subsection (1), for “mental illness” substitute “mental disorder”.
 - (3) After subsection (3) insert—
 - “(4) In relation to a patient receiving treatment in a hospital within the meaning of the Mental Health (Northern Ireland) Order 1986, the reference in subsection (1) above to mental disorder shall be construed in accordance with that Order.”
- 16 (1) Section 141 (Members of Parliament etc) is amended as follows.
- (2) In subsection (1)—
 - (a) after “House of Commons is authorised to be detained” insert “under a relevant enactment”, and
 - (b) for “mental illness” substitute “mental disorder”.
 - (3) In subsection (4)—
 - (a) for “mental illness” substitute “mental disorder”, and
 - (b) after “detained” insert “under a relevant enactment”.

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(4) In subsections (5) and (6), for “mental illness” substitute “mental disorder”.

(5) After subsection (6) insert—

“(6A) For the purposes of this section, the following are relevant enactments—

- (a) this Act;
- (b) the Criminal Procedure (Scotland) Act 1995 and the Mental Health (Care and Treatment) Scotland Act 2003 (“the Scottish enactments”); and
- (c) the Mental Health (Northern Ireland) Order 1986 (“the 1986 Order”).

(6B) In relation to an authorisation for detention under the Scottish enactments or the 1986 Order, the references in this section to mental disorder shall be construed in accordance with those enactments or that Order (as the case may be).”

17 In section 145(1) (interpretation), for the definitions of “mental disorder”, “severe mental impairment”, “mental impairment” and “psychopathic disorder” substitute—

““mental disorder” has the meaning given in section 1 above (subject to sections 86(4) and 141(6B));”.

PART 2

AMENDMENTS TO OTHER ACTS

Juries Act 1974

18 (1) Part 1 of Schedule 1 to the Juries Act 1974 (c. 23) (mentally disordered persons) is amended as follows.

(2) In paragraph 1, for “mental illness, psychopathic disorder, mental handicap or severe mental handicap” substitute “mental disorder within the meaning of the Mental Health Act 1983”.

(3) Omit paragraph 4(1).

Contempt of Court Act 1981

19 In section 14 of the Contempt of Court Act 1981 (c. 49) (proceedings in England and Wales), in subsection (4) and the first subsection (4A), for “mental illness or severe mental impairment” substitute “mental disorder within the meaning of that Act”.

Family Law Act 1996

20 (1) The Family Law Act 1996 (c. 27) is amended as follows.

(2) In section 48 (remand for medical examination and report), in subsection (4)—

- (a) for “mental illness or severe mental impairment” substitute “mental disorder within the meaning of the Mental Health Act 1983”,
- (b) for “the Mental Health Act 1983” substitute “that Act”, and

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(c) for “section 35 of the Act of 1983” substitute “that section”.

- (3) In section 51 (power of magistrates' court to order hospital admission or guardianship), in subsection (1), for “mental illness or severe mental impairment” substitute “mental disorder within the meaning of that Act”.

Housing Act 1996

- 21 In section 156 of the Housing Act 1996 (c. 52) (remand for medical examination and report), in subsection (4)—
- (a) for “mental illness or severe mental impairment” substitute “mental disorder within the meaning of the Mental Health Act 1983”,
 - (b) for “the Mental Health Act 1983” substitute “that Act”, and
 - (c) for “section 35 of that Act” substitute “that section”.

Care Standards Act 2000

- 22 In section 121 of the Care Standards Act 2000 (c. 14) (general interpretation), in subsection (1), for the definition of “mental disorder” substitute—
- ““mental disorder” has the same meaning as in the Mental Health Act 1983;”.

Mental Capacity Act 2005

- 23 (1) In Schedule 4 to the Mental Capacity Act 2005 (c. 9) (provisions applying to existing enduring powers of attorney), paragraph 23 is amended as follows.
- (2) In sub-paragraph (1), omit the words “(within the meaning of the Mental Health Act)”.
- (3) After sub-paragraph (1) insert—
- “(1A) In sub-paragraph (1), “mental disorder” has the same meaning as in the Mental Health Act but disregarding the amendments made to that Act by the Mental Health Act 2007.”

National Health Service Act 2006

- 24 In section 275 of the National Health Service Act 2006 (c. 41) (interpretation), in the definition of “illness” in subsection (1), for “mental disorder within the meaning of the Mental Health Act 1983” substitute “any disorder or disability of the mind”.

National Health Service (Wales) Act 2006

- 25 In section 206 of the National Health Service (Wales) Act 2006 (c. 42) (interpretation), in the definition of “illness” in subsection (1), for “mental disorder within the meaning of the Mental Health Act 1983” substitute “any disorder or disability of the mind”.

Police and Justice Act 2006

- 26 In section 27 of the Police and Justice Act 2006 (c. 48) (anti-social behaviour injunctions: power of arrest and remand), in subsection (11)—

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- (a) for “mental illness or severe mental impairment” substitute “mental disorder within the meaning of the Mental Health Act 1983”, and
- (b) for “the Mental Health Act 1983 (c. 20)” substitute “that Act”.