

**2008 No. 2561 (C. 113)**

**MENTAL HEALTH, ENGLAND AND WALES**

**The Mental Health Act 2007 (Commencement No. 8 and  
Transitional Provisions) Order 2008**

*Made* - - - - - *30th September 2008*

*Laid before Parliament* *6th October 2008*

*Coming into force* - - - *3rd November 2008*

The Secretary of State for Health, in exercise of the powers conferred by sections 56(1),(2),(4)(b) and (5) of the Mental Health Act 2007(a), and with the agreement of the Welsh Ministers in respect of functions exercisable by them, makes the following Order:

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Mental Health Act 2007 (Commencement No. 8 and Transitional Provisions) Order 2008 and shall come into force on 3rd November 2008.

(2) In this Order—

“the 2007 Act” means the Mental Health Act 2007;

“the 1983 Act” means the Mental Health Act 1983(b).

**Commencement of provisions**

2. The following provisions of the 2007 Act shall come into force on 3rd November 2008—

(a) section 18, insofar as not already in force;

(b) section 21, insofar as it gives effect to Schedule 2 in relation to Wales and is not already in force;

(c) section 30, insofar as it applies to Wales and is not already in force.

**Schedule**

3. The Schedule to this Order, which makes transitional and saving provisions, shall have effect.

Signed by authority of the Secretary of State for Health.

30th September 2008

*Dawn Primarolo*  
Minister of State,  
Department of Health

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(a) 2007 c.12.  
(b) 1983 c.20.

# 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;

“the Approval Regulations” means the Mental Health (Approval of Persons to be Approved Mental Health Professionals) (Wales) Regulations 2008<sup>(a)</sup>.

### **AMHPs: general**

**2.** Where a person is approved as an ASW by an LSSA in Wales immediately before the commencement day, that person shall be treated as an AMHP approved by that LSSA in relation to Wales (“a Welsh approval”) and the Approval Regulations shall apply to the extent set out in the following provisions of this Schedule.

**3.** 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 Wales**

**4.** Subject to regulation 5 of the Approval Regulations, a Welsh approval shall be for the unexpired period of that person’s approval as an ASW.

**5.** Regulation 5 of the Approval Regulations shall apply to a Welsh approval as if paragraph 2(c) of that regulation read—

“(c) if, in the opinion of the approving LSSA, that person does not possess the relevant competencies;”.

**6.** A Welsh approval shall be subject to the conditions set out in regulation 7 of the Approval Regulations.

**7.** Any ASW whose registration as a social worker is suspended immediately before commencement day, shall be treated as an AMHP whose approval as an AMHP is suspended in accordance with regulation 6 of the Approval Regulations for so long as their registration as a social worker is suspended.

**8.** A Welsh approval may be suspended in accordance with regulation 6 of the Approval Regulations.

**9.** An LSSA in Wales shall record details of a Welsh approval in accordance with regulation 9 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;”.

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(a) S.I. 2008/2436 (W.209).

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order is the eighth commencement order made under the Mental Health Act 2007(c.12) and brings into force on 3rd November 2008 the provisions set out in article 2.

The Order also makes transitional and saving provisions, which are set out in the Schedule to the Order.

The Schedule requires local social services authorities to treat as an approved mental health professional a person who had been approved as an approved social worker by an LSSA in Wales immediately before 3rd November 2008. The Mental Health (Approval of Persons to be Approved Mental Health Professionals) (Wales) Regulations 2008 apply to persons treated in Wales as AMHPs to the extent set out in the Schedule.

## NOTE AS TO EARLIER COMMENCEMENT ORDERS

*(This note is not part of the Order)*

The following provisions of the Mental Health Act 2007 have been, or are being, brought into force in England and Wales by commencement order made before the date of this Order—

<i>Provision of the Act</i>	<i>Date of Commencement</i>	<i>S.I. Number</i>
Section 1 and Schedule 1	03.11.2008	2008/1210(C.52)
	03.11.2008	2008/1900(C.84)
Sections 2 to 16	03.11.2008	2008/1900(C.84)
Section 17	01.04.2008	2008/745(C.30)
Section 18 (partially)	01.04.2008	2008/745(C.30)
	03.11.2008	2008/1900(C.84)
Section 19	01.10.2007	2007/2798(C.108)
Section 20	01.10.2007	2007/2798(C.108)
Section 21 and Schedule 2 (partially)	03.11.2008	2008/1900(C.84)
Section 22	01.04.2008	2008/745(C.30)
	03.11.2008	2008/1900(C.84)
Sections 23 to 25	03.11.2008	2008/1900(C.84)
Section 26	01.12.2007	2007/2798(C.108)
Sections 27 to 29	03.11.2008	2008/1900(C.84)
Section 30 (partially)	01.04.2008	2008/745(C.30)
Section 31 (partially)	03.11.2008	2008/1900(C.84)
Section 32 and Schedules 3 and 4	01.04.2008	2008/745(C.30)
	03.11.2008	2008/1210(C.52)
	03.11.2008	2008/1900(C.84)
Sections 33 and 34	03.11.2008	2008/1900(C.84)
Section 35	01.04.2008	2008/745(C.30)
	03.11.2008	2008/1900(C.84)
Section 36	03.11.2008	2008/1210(C.52)
Section 37	03.11.2008	2008/1900(C.84)
Section 38 (partially)	03.11.2008	2008/1900(C.84)
Section 39 and Schedule 5 (partially)	01.10.2007	2007/2798(C.108)
	01.04.2008	2008/745(C.30)
	03.11.2008	2008/1900(C.84)
Section 40	01.10.2007	2007/2798(C.108)

<i>Provision of the Act</i>	<i>Date of Commencement</i>	<i>S.I. Number</i>
Section 41	01.10.2007	2007/2798(C.108)
Section 42	01.10.2007	2007/2798(C.108)
Section 43	01.01.2008	2007/2798(C.108)
Section 44	30.04.2008	2008/800(C.39)
Section 45	24.07.2007	2007/2156(C.80)
Section 46	01.10.2007	2007/2798(C.108)
Section 47	01.04.2008	2008/745(C.30)
Section 48 and Schedule 6	03.11.2008	2008/1900(C.84)
Section 49	01.10.2007	2007/2798(C.108)
Section 50 and Schedules 7 and 9 (partially)	01.04.2008	2008/745(C.30)
Section 51	01.10.2007	2007/2635(C.102)
Section 54	01.04.2008	2008/745(C.30)
Section 55 and Schedule 11 (partially)	03.11.2008	2008/1210(C.52)

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