



# Mental Health Act 2007

## 2007 CHAPTER 12

### PART 3

#### GENERAL

#### 52 Meaning of “1983 Act”

In this Act “the 1983 Act” means the Mental Health Act 1983 (c. 20).

#### 53 Transitional provisions and savings

Schedule 10 (which contains transitional provisions and savings) has effect.

VALID FROM 01/04/2008

#### 54 Consequential provisions

- (1) The Secretary of State may by order made by statutory instrument make supplementary, incidental or consequential provision for the purposes of, in consequence of, or for giving full effect to a provision of this Act.
- (2) An order under subsection (1) may, in particular—
  - (a) amend or repeal any provision of an Act passed before, or in the same Session as, this Act;
  - (b) amend or revoke any provision of subordinate legislation made before the passing of this Act;
  - (c) include transitional or saving provision in connection with the coming into force of provision made by the order.
- (3) In relation to provision which deals with matters with respect to which functions are exercisable by the Welsh Ministers—
  - (a) the power under subsection (1) is exercisable by the Secretary of State only with agreement of the Welsh Ministers, and

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- (b) the power under that subsection is also exercisable by the Welsh Ministers except that provision may not be made by virtue of subsection (2)(a).
- (4) The amendments that may be made by virtue of subsection (2) are in addition to those made by or by virtue of any other provision of this Act.
- (5) A statutory instrument containing an order under subsection (1) which makes provision by virtue of subsection (2)(a) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (6) A statutory instrument containing any other order under subsection (1) made by the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) A statutory instrument containing an order under subsection (1) made by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (8) In subsection (2), “subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30).

VALID FROM 28/10/2008

## 55 Repeals and revocations

The enactments mentioned in Schedule 11 are repealed or revoked to the extent specified.

### Commencement Information

- II** s. 55 not in force at Royal Assent see s. 56(1); s. 55 in force for specified purposes for E.W. at 28.10.2008 by S.I. 2008/2788, art. 2(b); s. 55 in force for specified purposes at 3.11.2008 by S.I. 2008/1210, arts. 1(1)(b), 2(c) (with art. 4); s. 55 in force for specified purposes at 3.11.2008 by S.I. 2008/1900, arts. 1(1), 2(p); s. 55 in force for specified purposes at 1.4.2009 by S.I. 2009/139, art. 2(f)

## 56 Commencement

- (1) This Act (other than sections 51 to 53 (and Schedule 10), this section and sections 57 to 59) comes into force in accordance with provision made by the Secretary of State by order made by statutory instrument.
- (2) In relation to provision which deals with matters with respect to which functions are exercisable by the Welsh Ministers, the power under subsection (1) is exercisable only with their agreement.
- (3) Section 51 comes into force in accordance with provision made by the Lord Chancellor by order made by statutory instrument.
- (4) An order under this section may—
- (a) make different provision for different purposes (including different provision for different areas and different provision for different descriptions of patient);

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- (b) include transitional or saving provision.
- (5) The provision which may be made by virtue of subsection (4)(b) includes provision modifying the application of a provision of this Act pending the commencement of a provision of another enactment.
- (6) A statutory instrument containing an order under this section which makes provision by virtue of subsection (4)(b) (including provision within section 57) is subject to annulment in pursuance of a resolution of either House of Parliament.

#### Subordinate Legislation Made

- P1** S. 56(1) power partly exercised: 24.7.2007 appointed for s. 45 (E.W.) by {S.I. 2007/2156}, art. 2
- S. 56(1) power partly exercised: different dates appointed for specified provisions and purposes (E.W.) by {S.I. 2007/2798}, arts. 2-4
- S. 56(1) power partly exercised: 1.4.2008 appointed for specified provisions and purposes by {S.I. 2008/745}, arts. 2-4
- S. 56(1) partly exercised: 30.4.2008 appointed for s. 44 by {S.I. 2009/800}, art. 2 (with art. 3)
- S. 56(1) power partly exercised: 3.11.2008 appointed for specified provisions by {S.I. 2008/1210}, arts. 1(1)(b), 2, (with arts. 3-12)
- S. 56(1) power partly exercised: 3.11.2008 power appointed for specified provisions by {S.I. 2008/1900}, arts. 1(1), 2, (with art. 3, Sch.)
- S. 56(1) power partly exercised: 3.11.2008 appointed for specified provisions by {S.I. 2008/2561}, art. 2 (with art. 3, Sch.)
- S. 56(1) power partly exercised: 28.10.2008 appointed for specified provisions and purposes (E.W.) by {S.I. 2008/2788}, art. 2
- S. 56(1) power partly exercised: 1.4.2009 appointed for specified provisions and purposes by {S.I. 2009/139}, art. 2 (with transitional provisions in art. 3, Sch)
- S. 56(1) power partly exercised: 1.4.2010 appointed for s. 31(3) (E.W.) by {S.I. 2010/143}, art. 2
- P2** S. 56(3) power fully exercised: 1.10.2007 appointed for s. 51 (E.W.) by {S.I. 2007/2635}, art. 2

#### 57 Commencement of section 36

- (1) An order under section 56 providing for the commencement of section 36 may, in particular, provide—
  - (a) for that section not to apply to or affect a patient who is subject to after-care under supervision immediately before that commencement, and
  - (b) for the patient to cease to be subject to after-care under supervision, and for his case to be dealt with, in accordance with provision made by the order.
- (2) The order may require—
  - (a) a Primary Care Trust or Local Health Board to secure that the patient is examined by a registered medical practitioner of a description specified in the order;
  - (b) the registered medical practitioner to examine the patient with a view to making a decision about his case by reference to criteria specified in the order.
- (3) The order may require the registered medical practitioner, having complied with provision made by virtue of subsection (2)(b)—
  - (a) to discharge the patient,
  - (b) to recommend that he be detained in hospital,
  - (c) to recommend that he be received into guardianship, or

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- (d) to make a community treatment order in respect of him.
- (4) The order may, in respect of a recommendation made by virtue of subsection (3)(b) or (c)—
  - (a) provide that the recommendation is to be made to a local social services authority determined in accordance with the order;
  - (b) provide that the recommendation is to be made in accordance with any other requirements specified in the order;
  - (c) require the local social services authority determined in accordance with paragraph (a), in response to the recommendation, to make arrangements for an approved mental health professional to consider the patient's case on their behalf.
- (5) The order may provide that a registered medical practitioner shall not make a community treatment order in respect of a patient unless an approved mental health professional states in writing—
  - (a) that he agrees with the decision made by the practitioner about the patient's case, and
  - (b) that it is appropriate to make the order.
- (6) An order requiring a registered medical practitioner to make a community treatment order in respect of a patient shall include provision about—
  - (a) the effect of the community treatment order (in particular, replacing after-care under supervision with a contingent requirement to attend, and be detained at, a hospital), and
  - (b) the effect of its revocation (including, in particular, provision for detention under section 3 of the 1983 Act).
- (7) The order may modify a provision of the 1983 Act in its application in relation to a patient who is subject to after-care under supervision immediately before the commencement of section 36.
- (8) Provision made by virtue of subsection (7) may, in particular—
  - (a) modify any of sections 25A to 25J of the 1983 Act in their application in relation to a patient for so long as he is, by virtue of subsection (1)(a), subject to after-care under supervision after the commencement of section 36;
  - (b) modify any of sections 17A to 17G, 20A and 20B of that Act (inserted by section 32 of this Act) in their application in relation to a patient in respect of whom a community treatment order is made by virtue of subsection (3)(d).
- (9) A reference in this section to section 36 includes the amendments and repeals in Schedules 3 and 11 consequential on that section.
- (10) An expression used in this section and in the 1983 Act has the same meaning in this section as it has in that Act.

## 58 Extent

- (1) The provisions of this Act which amend other enactments have the same extent as the enactments which they amend.
- (2) But subsection (1) is subject to—
  - (a) paragraph 35 of Schedule 3,

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- (b) paragraphs 3, 4 and 20 of Schedule 5, and
- (c) paragraph 12 of Schedule 9.

(3) Section 54 extends to the United Kingdom.

## **59 Short title**

This Act may be cited as the Mental Health Act 2007.

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