

*These notes refer to the Mental Health Act 2007
(c.12) which received Royal Assent on 19 July 2007*

MENTAL HEALTH ACT 2007

EXPLANATORY NOTES

COMMENTARY

Part 1 – Amendments to Mental Health Act 1983

Chapter 7 - Restricted Patients

Section 40: Restriction orders

168. **Section 40** amends section 41 of the 1983 Act to remove the power of the Crown Court to make restriction orders under section 41 for a limited period. As a result, restriction orders imposed by the Court will remain in force until they are discharged by the Secretary of State for Justice or the MHRT. The section also makes consequential changes to other provisions of the 1983 Act.

Section 41: Conditionally discharged patients subject to limitation directions

169. **Section 41** makes an amendment to section 75(3) of the 1983 Act so that, on the application of a patient who has been conditionally discharged from hospital while subject to hospital and limitation directions, the MHRT may direct that the patient's limitation direction is to cease to have effect, in which case the patient's hospital direction will also cease to have effect, and the patient will be absolutely discharged. Hospital and limitation directions may be imposed by the Crown Court in accordance with section 45A of the 1983 Act where the court considers it appropriate to direct the prisoner's detention in hospital for medical treatment as well as passing a prison sentence. The amendment brings the position of patients subject to limitation directions into line with other restricted patients, in that section 75(3) will now apply to both.