
STATUTORY INSTRUMENTS

2010 No. 813

**The Health and Social Care Act 2008
(Consequential Amendments No.2) Order 2010**

Amendments of the Mental Health Act 1983

5.—(1) The Mental Health Act 1983(1) is amended as follows.

(2) In section 24 (visiting and examination of patients)(2), in subsection (3)(b), after “Part II of the Care Standards Act 2000” insert “or Part 1 of the Health and Social Care Act 2008”.

(3) In section 34 (interpretation of Part 2)(3), in subsection (1), for the definition of “registered establishment” substitute—

““registered establishment” means an establishment which would not, apart from subsection (2) below, be a hospital for the purposes of this Part and which—

- (a) in England, is a hospital as defined by section 275 of the National Health Service Act 2006 that is used for the carrying on of a regulated activity, within the meaning of Part 1 of the Health and Social Care Act 2008, which relates to the assessment or medical treatment of mental disorder and in respect of which a person is registered under Chapter 2 of that Part; and
- (b) in Wales, is an establishment in respect of which a person is registered under Part 2 of the Care Standards Act 2000 as an independent hospital in which treatment or nursing (or both) are provided for persons liable to be detained under this Act;”.

(4) In section 119 (practitioners approved for Part 4 and section 118)(4)—

- (a) in subsection (2)(a), for “establishment of any description” substitute “regulated establishment (other than a hospital)”; and
- (b) for subsection (3) substitute—

“(3) In this section “regulated establishment” means—

- (a) an establishment in respect of which a person is registered under Part 2 of the Care Standards Act 2000; or
- (b) premises used for the carrying on of a regulated activity, within the meaning of Part 1 of the Health and Social Care Act 2008, in respect of which a person is registered under Chapter 2 of that Part.”.

(5) In section 145 (interpretation)(5)—

- (a) for the definition of “independent hospital” substitute—

(1) 1983 c. 20.

(2) Relevant amendments to section 24(3) were made by S.I. 2000/90, Schedule 1, paragraph 16(5); the 2000 Act, Schedule 4 paragraph 9(3); the Health and Social Care (Community Health and Standards) Act 2003 (c. 43), Schedule 4, paragraph 54 and the Mental Health Act 2007 (c. 12), section 9(7) and Schedule 3, paragraph 11(3).

(3) The definition of “registered establishment” was inserted by the 2000 Act, Schedule 4, paragraph 9(4).

(4) Relevant amendments to section 119 were made by the Mental Health Act 2007 (c. 12), section 35(2)(a) and the Health and Social Care Act 2008 (c. 14), Schedule 3, paragraph 7(3).

(5) The definition of “independent hospital” was inserted by the 2000 Act, Schedule 4, paragraph 9(1), (10)(b) and in the definition of “the managers” paragraph (c) was substituted by the 2000 Act, Schedule 4, paragraph 9(1), (10)(c).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

““independent hospital”—

- (a) in relation to England, means a hospital as defined by section 275 of the National Health Service Act 2006 that is not a health service hospital as defined by that section, and
- (b) in relation to Wales, has the same meaning as in the Care Standards Act 2000;”;

(b) in the definition of “the managers” for paragraph (c) substitute—

- “(c) in relation to a registered establishment—
 - (i) if the establishment is in England, the person or persons registered as a service provider under Chapter 2 of Part 1 of the Health and Social Care Act 2008 in respect of the regulated activity (within the meaning of that Part) relating to the assessment or medical treatment of mental disorder that is carried out in the establishment, and
 - (ii) if the establishment is in Wales, the person or persons registered in respect of the establishment under Part 2 of the Care Standards Act 2000;”.