# **EXPLANATORY NOTES**

# MENTAL HEALTH ACT 2007

#### **INTRODUCTION**

# LIST OF ABBREVIATIONS USED IN EXPLANATORY NOTES

#### **BACKGROUND AND SUMMARY**

**Background** 

**Summary** 

#### **OVERVIEW OF THE STRUCTURE**

# TERRITORIAL EXTENT

**Territorial application: Wales** 

# **COMMENTARY**

# PART 1 – AMENDMENTS TO MENTAL HEALTH ACT 1983

# **Chapter 1 – Changes to Key Provisions**

- Section 1: Removal of categories of mental disorder
- Schedule 1: Categories of mental disorder: further amendments etc
- Section 2: Learning disability
- Section 3: Changes to exclusions from operation of 1983 Act

#### Criteria for detention under the 1983 Act: overview

- Section 4: Replacement of "treatability" and "care" tests with appropriate treatment test
- Section 5: Further cases in which appropriate treatment test is to apply
- Section 6: Appropriate treatment test in Part 4 of 1983 Act
- Section 7: Change in definition of "medical treatment"
- Section 8: The fundamental principles

#### **Chapter 2 - Professional Roles**

#### **Overview**

- Section 9: Amendments to Part 2 of 1983 Act
- Section 10: Amendments to Part 3 of 1983 Act
- Section 11: Further amendments to Part 3 of 1983 Act
- Section 12: Amendments to Part 4 of 1983 Act
- Section 13: Amendments to Part 5 of 1983 Act
- Section 14: Amendments to other provisions of 1983 Act
- Section 15: Amendments to other Acts
- Section 16: Certain registered medical practitioners to be treated as approved under section 12 of 1983 Act
- Section 17: Regulations as to approvals in relation to England and Wales
- Section 18: Approved mental health professionals
- Section 19: Approval of courses etc for approved mental health professionals
- Section 20: Amendments to section 62 of Care Standards Act 2000
- Section 21: Approved mental health professionals: further amendments and Schedule 2
- Section 22: Conflicts of interest

#### **Chapter 3 – Safeguards for Patients**

- Sections 23-26: Patient's nearest relative
- Sections 27-31: Consent to treatment Overview of consent to treatment provisions in the 1983 Act
- Section 27: Electro-convulsive therapy, etc
- Section 28: Section 27: supplemental
- Section 29: Withdrawal of consent
- Section 30: Independent Mental Health Advocates
- Section 31: Accommodation etc

# **Chapter 4 – Supervised Community Treatment**

#### **Overview**

- Section 32: Community treatment orders, etc
- Section 33: Relationship with leave of absence

#### *These notes refer to the Mental Health Act 2007 (c.12)*

- Section 34: Consent to treatment
- Section 35: Authority to treat
- Section 36: Repeal of provisions for after-care under supervision
- Schedule 3: Supervised community treatment: further amendments to 1983 Act
- Schedule 4: Supervised community treatment: amendments to other Acts

# **Chapter 5 - Mental Health Review Tribunals**

- Section 37: References
- Section 38: Organisation

### **Chapter 6 - Cross-Border Patients**

Section 39: Cross-border arrangements

## **Chapter 7 - Restricted Patients**

- Section 40: Restriction orders
- Section 41: Conditionally discharged patients subject to limitation directions

#### **Chapter 8 - Miscellaneous**

- Section 42: Offence of ill-treatment: increase in maximum penalty on conviction on indictment
- Section 43: Informal admission of patients aged 16 or 17
- Section 44: Places of safety
- Section 45: Delegation of powers of managers of NHS foundation trusts
- Section 46: Local Health Boards
- Section 47: Welsh Ministers: procedure for instruments

#### PART 2 – AMENDMENTS TO OTHER ACTS

# Chapter 1 – Amendments to the Domestic Violence, Crime and Victims Act 2004

Section 48: Victims' rights and Schedule 6

#### **Chapter 2 - Amendments to Mental Capacity Act 2005**

- Section 49: Independent mental capacity advocates: exceptions
- Section 50: Mental Capacity Act 2005: deprivation of liberty and Schedules 7 to 9
- Section 51: Amendment to section 20(11) of Mental Capacity Act 2005

# These notes refer to the Mental Health Act 2007 (c.12)

# **PART 3 - GENERAL**

Sections 52-59

Section 53 and Schedule 10: Transitional provision and savings

Section 54: Consequential provisions

Section 56: Commencement

Section 57: Commencement of section 36

Section 58: Extent

# TRANSPOSITION NOTES

# HANSARD REFERENCES