

# MENTAL HEALTH ACT 2007

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## EXPLANATORY NOTES

### COMMENTARY

#### Part 3 - General

##### *Section 56: Commencement*

247. **Section 56** (commencement) provides that the provisions of the 2007 Act (other than sections 51-53 and Schedule 10, section 56 itself and sections 57- 59) are to be brought into force on a day appointed for the purpose by the Secretary of State by order made by statutory instrument. In accordance with subsection (4)(a), provisions may be commenced separately in England and Wales. They may also be commenced separately for different groups of patients, e.g. those subject to Part 2 or Part 3 of the 1983 Act and, where relevant, informal patients.
248. **Section 51**, which amends the MCA, will be brought into force on a day appointed by order made by the Lord Chancellor. Sections 52 (meaning of “1983 Act”), 53 and Schedule 10 (transitional provisions and savings), 56 (commencement), 57 (commencement of section 36), 58 (extent) and 59 (short title) will come into effect immediately. Orders made under section 56 are to be made by statutory instrument and, by virtue of subsection (6), are subject to the negative resolution procedure if they include transitional or saving provision.
249. The power in subsections (4)(b) and (5) to make transitional provision to modify the application of the 2007 Act pending the commencement of a provision of another enactment will be used to make temporary modifications to the amendments made by Schedule 4 to the Administration of Justice Act 1960, the Courts-Martial (Appeals) Act 1968 and the Criminal Appeal Act 1968. The modifications will be necessary in order to reflect the existing definition of “relevant time” in section 20(5) of the Courts-Martial (Appeals) Act pending its repeal and replacement by a new definition, for which the Armed Forces Act 2006 provides. They will also be necessary to provide for the retention of the role of the Defence Council under the Courts-Martial (Appeals) Act pending its replacement by that of the Director of Service Prosecutions, for which the Armed Forces Act provides. And they will be necessary to provide for the retention of the role of the House of Lords in the Administration of Justice Act, the Criminal Appeal Act and the Courts-Martial (Appeals) Act pending its replacement by the Supreme Court, for which the Constitutional Reform Act 2005 provides.