

# **MENTAL HEALTH ACT 2007**

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## **EXPLANATORY NOTES**

### **COMMENTARY**

#### **Part 1 – Amendments to Mental Health Act 1983**

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

##### *Section 2: Learning disability*

20. *Section 2* provides that for certain provisions of the 1983 Act a person may not be considered to be suffering from a mental disorder simply as a result of having a learning disability, unless that disability is associated with abnormally aggressive or seriously irresponsible conduct on the part of the person concerned.
21. The provisions in question are those which are currently limited to one or more of the four categories of mental disorder which are to be abolished by section 1. As well as criteria for detention they also include criteria for the use of guardianship in section 7 and the making of guardianship orders in section 37 of the 1983 Act.
22. The reference to association with abnormally aggressive or seriously irresponsible conduct is derived from the current definitions of “mental impairment” and “severe mental impairment” in the 1983 Act (which are removed by section 1). Accordingly, in those cases where the 1983 Act as it stands now effectively precludes the use of detention or other compulsory measures on the basis of a learning disability which is not associated with abnormally aggressive or seriously irresponsible conduct, the same will be true of the Act as amended.