

# MENTAL HEALTH ACT 2007

## EXPLANATORY NOTES

### COMMENTARY

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

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

#### *Section 7: Change in definition of “medical treatment”*

38. *Subsection (1)* of section 7 amends the definition of medical treatment in section 145(1) to read:
- “medical treatment” includes nursing, psychological intervention and specialist mental health habilitation, rehabilitation and care (but see also subsection (4) below”).
39. Accordingly, the definition covers medical treatment in its normal sense as well as the other forms of treatment mentioned. Practical examples of psychological interventions include cognitive therapy, behaviour therapy and counselling. “Habilitation” and “rehabilitation” are used in practice to describe the use of specialised services provided by professional staff, including nurses, psychologists, therapists and social workers, which are designed to improve or modify patients’ physical and mental abilities and social functioning. Such services can, for example, include helping patients learn to eat by themselves or to communicate for the first time, or preparing them for a return to normal community living. The distinction between habilitation and rehabilitation depends in practice on the extent of patients’ existing abilities – “rehabilitation” is appropriate only where the patients are relearning skills or abilities they have had before.
40. *Subsection (2)* inserts a new subsection (4) in section 145 of the 1983 Act (interpretation) to provide that references in the 1983 Act to medical treatment for mental disorder mean medical treatment the purpose of which is to alleviate, or prevent a worsening of, the disorder or one or more of its symptoms or manifestations. This applies to all references in the 1983 Act to medical treatment in relation to mental disorder, including references to appropriate medical treatment to be inserted by sections 4 to 6 above.

#### SUMMARY OF EFFECT OF AMENDMENTS IN [CHAPTER 1 OF PART 1](#)

<i>Provision</i>	<i>Currently applies to</i>	<i>Will apply in future to</i>	<i>Learning disability provision to apply in future</i>	<i>“Treatability” test applies now</i>	<i>Appropriate medical treatment test to apply in future</i>
<b>Civil Patients (Part 2 of the Act)</b>					
Key: MI = mental illness, MM = mental impairment, PD = psychopathic disorder, SMM = severe mental impairment					

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

<i>Provision</i>	<i>Currently applies to</i>	<i>Will apply in future to</i>	<i>Learning disability provision to apply in future</i>	<i>“Treatability” test applies now</i>	<i>Appropriate medical treatment test to apply in future</i>
Admission for assessment for up to 28 days (section 2)	Mental disorder	Mental disorder	#	#	#
Admission for treatment (s3)	<b>Mi, Mm, Pd, Smm</b>	Mental disorder	#	#	#
“Holding power” for patients already in hospital (s5)	Mental disorder	Mental disorder	#	#	#
Guardianship (s7)	<b>Mi, Mm, Pd, Smm</b>	Mental disorder	#	#	#
<b>Patients concerned in criminal proceedings (Part 3 of the Act)</b>					
Remand to hospital for report (s35)	<b>Mi, Mm, Pd, Smm</b>	Mental disorder	#	#	#
Remand to hospital for treatment (s36)	<b>Mi, Smm</b>	Mental disorder	#	#	#
Hospital order (s37)	<b>Mi, Mm, Pd, Smm</b>	Mental disorder	#	#	#
Hospital order without conviction (s37(3) & 51(5))	<b>Mi, Smm</b>	Mental disorder	#	#	#
Interim hospital order (s38)	<b>Mi, Mm, Pd, Smm</b>	Mental disorder	#	#	#
Hospital and limitation directions (s45A)	<b>Pd</b>	Mental disorder	#	#	#
Transfer direction – sentenced prisoner (s47)	<b>Mi, Mm, Pd, Smm</b>	Mental disorder	#	#	#
Transfer direction – other (s48)	<b>Mi, Smm</b>	Mental disorder	#	#	#
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