

Mental Health Law Briefing

Solicitors

Number 125

Mental Health Act 2007 - Countdown Briefing No.1

Many of the provisions of the Mental Health Act 2007, amending the Mental Health Act 1983, are anticipated to come into force later in 2008. Our series of Countdown Briefings are intended to flag the key aspects relating to the most important provisions. They are intended to be an easy reference point and summary rather than an exhaustive guide to the law.

Definition of Mental Disorder

One of the key policy aims for the Government in bringing forward amendments to the Mental Health Act 1983 was to ensure that patients who required treatment would receive this and in particular that no one would fail to receive care because they fell outside an artificial definition of what is or is not a psychiatric illness or disorder. Therefore, the four specific categories of mental disorder contained within the 1983 Act – mental illness, mental impairment, severe mental impairment or psychopathic disorder – are abolished and replaced with a single definition for mental disorder:-

“Mental disorder” means any disorder or disability of the mind”.

Dependence on alcohol or drugs is still NOT considered to be a disorder or disability of the mind for the purposes of the Act (see the new amended Section 1 (3)).

The exclusion for promiscuity or other immoral conduct, or sexual deviancy, has been removed and therefore this may now amount to a mental disorder. This appears to be

consistent with the Government’s aim to ensure that a wide range of personality disorders are within the remit of the amended Act

Specific provisions are included which refer to learning disability. An individual is not to be considered by reason of any such disability to be suffering from a mental disorder or requiring treatment in hospital for mental disorder unless that disability is associated with abnormally aggressive or seriously irresponsible conduct on the patient’s behalf (see Section 1 (2A) of the amended Act).

The Act provides a definition for “learning disability”:-

S.1 (4) ... “learning disability” means a state of arrested or incomplete development of the mind which includes significant impairment of intelligence and social functioning”.

Comment

Although the policy aim is to ensure that treatment is available, the new definition is clearly wider and potentially brings within the remit of the Act a larger cohort of individuals. This will include many suffering

from a personality disorder. Although this extended definition would seem to extend the remit of the Act, the impact of this will also be affected by the abolition of the

treatability test and the change in the definition of medical treatment which will be addressed in future briefings.

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March 2008

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Readers are advised to take specific advice before acting in reliance on the matters set out in this briefing.

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