

Mental Health Law Briefing

Solicitors

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Mental Health Act 2007 - Countdown Briefing No.2

Place of Safety

The Mental Health Act 2007 includes various updating and “tidying” provisions. One of these is to alter the current provisions regarding the power to detain an individual at a place of safety.

Concerns had been expressed at the inability under the 1983 Act to move a person who was detained in a place of safety from one such place to another. The existing provision was inflexible and meant that a person detained at, for example, a police station had to be kept there even though a hospital bed might be available for them, until formal detention under the longer term provisions of the Act could be put in place.

The 2007 Act therefore amends Section 135 and 136 and enables a person detained at a place of safety to be transferred to one or more places of safety, subject to the overall time limit for detention of 72 hours. Before the amendment, the 1983 Act did not permit any such

transfer, even if it were in the best interests of the patient.

This proposal was widely welcomed and the government have therefore decided to bring this Section into force as quickly as possible. The Mental Health Act 2007 (Commencement No 5 and Transitional Provisions) Order 2008 has therefore now been passed, bringing this amendment into force on **30th April 2008**.

As this provision is coming into force early, there is also a need for transitional provisions to provide that references in Section 44 of the 2007 Act (which amends the 1983 Act) which refer to an “approved mental health professional” should be read as reference to “approved social worker” until the rest of the 2007 Act provisions come into effect. This will ensure that approved social workers as well as police officers can be involved in making transfers between places of safety from the outset. Places of safety include a hospital, a care home and a police station.

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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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Commencement

The following provisions of the 2007 Act have been or are being brought into force so far.

Section 17	01.04.08	Power to make regulations regarding approval of practitioners
Section 18 (partially)	01.04.08	Approved mental health professionals
Section 19	01.10.07	Approval of courses for mental health professionals
Section 20	01.10.07	Amendment to Care Standards Act 2000 regarding conduct of social workers
Section 22 (partially)	01.04.08	Conflicts of interest in professional roles
Section 26	01.12.07	Civil partners
Section 30 (partially)	01.04.08	Independent Mental Health Advocates
Section 32	01.04.08	Community treatment orders
Section 35	01.04.08	Treatment of community patients not recalled to hospital
Section 39/ Schedule 5 (partially)	01.10.07 01.04.08	Cross border arrangements
Section 40	01.10.07	Restriction orders
Section 41	01.10.07	Conditionally discharge patients subject to limitation directions
Section 42	01.10.07	Offence of ill-treatment
Section 43	01.01.08	Informal admission of patients aged 16 or 17
Section 45	24.07.07	Delegation of powers of managers of NHS foundation Trusts
Section 46	01.10.07	Local Health Boards
Section 47	01.04.08	Welsh ministers: Procedure for instruments
Section 49	01.10.07	Independent mental capacity advocate service: exceptions
Section 50	01.04.08	Deprivation of liberty
Schedule 7/9 (partially)	01.10.07	Deprivation of liberty/Amendments to Mental Capacity Act
Section 51	01.04.08	Amendments to provisions in Mental Capacity Act 2005 in relation to restrictions on deputies