

BOOK REVIEW

MENTAL HEALTH LAW

BLACKSTONE'S GUIDE TO THE MENTAL HEALTH ACT 2007

By Paul Bowen

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ANALYSING THE NEW MENTAL HEALTH LAWS

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Doughty Chambers barrister, Paul Bowen, specialises in human rights law and public law and has used his considerable knowledge to assemble an excellent guide to a technically complex area of social importance: mental health issue - the area few want to talk about.

The Mental Health Act 2007, and the earlier Mental Capacity Act 2005, are both reproduced in this guide that delivers concise and accessible information on the latest legislative changes and amendments now in force.

Contents of the Book

The recent history of the new legislation has been controversial, so the Guide gives an introduction to the substantial amendments to the existing 1983 Act by analysing the amendments in two parts:

Part 1 covers reform of the 1983 Act with an introduction and background to the subject including the effect of the Human Rights Act. It then goes on to cover in six headings: an overview of the 1983 Act and its amendments; amendments to the criteria for guardianship and detention under the 1983 Act; additional safeguards for patients in relation to admission and detention; supervised community treatment; medical treatment for mental disorder under the 1983 Act; and other amendments.

Part 2 covers the Mental Capacity Act 2005 and its amendments beginning with an introduction and overview. There are seven specific sections dealing with: care and

treatment at common law; care and treatment without detention under the 2005 Act; detention for care and treatment under the 2005 Act; standard and urgent authorisations; representation of schedule A1 detainees; the Court of Protection, the Public Guardian, and the Court of Protection Visitors; and finally the interface between the detention and treatment regimes after the three main acts and at common law.

Apart from the full text of the three Acts, appendix 4 covers, in diagram form, the Standard Authorisation Procedure under Schedule A1 of the 2005 Act which students and practitioners alike will find of great use. Cases and terms and abbreviations are also useful extras for the guide which gives timely and expert commentary on the meaning and effects of the three pieces of legislation.

A Key Information Guide

The foreword by James Munby is sensitive and to the point when he highlights Bowen's reassuring approach to the debate on whether the redefinition of 'mental disorder' and the replacement of the previous 'treatability' test, for instance, may prove to have what the judge describes as "the undesirable consequences that many feared".

The hotchpotch of the provisions which have been amended are clearly the pathfinders for future argument and judgements with the inevitable human rights challenges.

The Final Chapter

I found the final chapter one of the most important in the guide when Bowen covers the interface between the 1983 and 2005 Acts. The guide is also a practical approach because it prints the two Acts showing which words have been deleted and which words have been added by the 2007 Act, so that the reader can compare the 'old' and the 'new' texts at a glance.

The Mental Health Act Guide from Blackstone is a fair statement of what has happened since the process was started ten years ago by Professor Richardson.

There is a certain inevitability in the somewhat frustrated view of Paul Bowen that "still, this is the legislation we have, so we had better get used to it"!

It is a fair statement of the anguish which the Parliamentarians had when they debated these sections. I welcome this important Guide as the perfect companion for all practitioners who need to be up to speed with analysis of the latest set of rules since the introduction of the Human Rights Act while Blackstone's guides remain cost effective solutions to the vastness, complexity and expense of legal rules today.

