

## Using the Mental Health Act Manual by Professor Richard Jones

Professor Richard Jones' manual contains the Mental Health Act 1983 (MHA), Mental Health Units (Use of Force) Act 2018, extracts from the Code of Practice to the MHA and Rules, Regulations, Circulars and Guidance along with Jones' own commentary. The current edition is the 26<sup>th</sup> dated 2023. Just after the Preface is the Table of Contents and you will see that the manual has Parts, not chapters. Following the table of Contents pages is a Table of Cases, which is referred to throughout the manual. After this you will see that page 1 which is headed Part 1: Mental Health Act 1983 and page 3 sets out the details and sections of the MHA.

### The MHA within the MHA Manual:

The MHA received Royal Assent in 1983 and is still referred to as the MHA 1983, even though some parts of it have been amended at various points since then. The MHA is divided into **Parts**. There are 10 Parts, all in Roman numerals, except for Part 4A which is a more recent addition. If you look at Part VII you will see that this has been repealed.

*Tasks: Go through the contents of the Act on page 1 of the Manual and identify what each Part includes. Look at Part VII - what was this and why has this been repealed?*

*Can you find Part X- what is this?*

These Parts are then divided into sections, e.g. Section 1. The sections are divided into sub-sections, e.g. s1(1) is Section 1, subsection (1) and paragraphs e.g. Section 2(2)(a). You may notice at points that some paragraphs are within square brackets, i.e. [words, words, words]. This indicates text that has been amended. If the brackets are empty but have [...] this indicates points where text has been repealed.

*Task: Look at s.25A and s.3(2)(b)-can you identify what has happened to these sections and why?*

The wrongful use of the term 'sectioned' actually refers to the fact that someone is subject to the powers of a particular section of the legislation. It does not always mean 'detained'. For example, think about Community Treatment Orders (CTOs).

At the top of each page of the Act you will see that it gives the sections numbers in those pages. For example page 41 has (1983, ss2-6) which can be a quick route to finding what you need. The publishers have used smaller font in this current manual and so the headings on each page straddle several sections rather than just one. The actual section text is in larger font and each section has a heading.

*Task: Can you find the heading for section 3- which page is it on? What is the heading for section 3?*

You will see that the section is written first (this is the actual law) and is then followed with several sub-headings: **Amendments, Definitions, General Note**, before making more detailed notes on each subsection. The **General Note** usually offers a helpful summary of each section, so for example, see General Note to section 2. Everything written after the actual section is in smaller font, so that it can be differentiated from the actual law and section.

Anything after the actual section will be comments on the statute, information, sources of repeals, amendments and references to relevant case law. Legal manuals often cross-reference within these notes and use paragraph numbering systems at the side of the page to help you locate other notes. E.g. 1-061. This referencing system relates to the contents of the manual as a whole rather than just the MHA and are rather confusingly termed parts, so Part 1 relates to the MHA 1983 and the Mental Health Units (Use of Force) Act 2018, Part 2 to Delegated Legislation, Part 3 to Practice and Procedure, Part 4 to Government Guidance, Part 5 to the Human Rights Act 1998, Part 6 to Deprivations of Liberty and then several Appendices. You can see this list in the contents page at the front of the manual.

*Tasks –*

*Find 1-029 and note what this is. Now find 2-041 and note what this is?*

There is also an index at the back of the manual and you will see that the manual does not use page numbers (because some notes span so many pages), but the numbering system as above, e.g 1-029. The full **MHA Code of Practice** is no longer a separate Appendix in the manual but relevant parts are integrated in to the general notes after each section. Although the Code is arranged in sections, it is not referenced by section. The Code is referenced by Chapters and Paragraphs, e.g. MHA Code Chapter 3, Para 1 or Para 3.1 etc. Some people write CoP but as this can be confused with the Court of Protection the better referencing is MHA Code Para XXX. Note the Welsh MHA Code is different and the manual refers mostly to the English MHA Code.

Note in the **Table of Cases** that these are listed in alphabetical order. However, when you reach the letter 'R', you will notice that there is also an alphabetical list for all cases starting with R. It is worth searching within 'R' for a piece of case law even when the case may be known by a different name. If the case name is R v X then this denotes a criminal case as it is the Crown (Rex or Regina) prosecuting the criminal defendant. If the case is R (on the application of X) this denotes an action against a state body, most likely a judicial review case. This is a historical convention of the Crown having a supervisory role in relation to the exercise of state power whereby the Crown notionally acts on behalf of the applicant.

**Schedules** are appendices to an Act of Parliament.

**Regulations** are delegated legislation. Parliament passes the Act but the 'how to' or the detail is left up to the Secretary of State.

**Local Authority Circulars (LACs) and Health Circulars (HCs)** are guidance and indicate the way the government wish to see the legislation implemented.

Space for notes or questions:

This exercise was written by the authors originally in 2006 for use on University ASW/AMHP qualifying courses. It continues to be used on AMHP university qualifying courses and in training run by Edge Training and Consultancy Ltd.