BRIEFING FOR IMHA SERVICES

Understanding the Amendments Made by the Mental Health Act 2025

1. Introduction

The Mental Health Act 2025 received Royal Assent on 18 December 2025, introducing the most significant set of reforms to the MHA 1983 in decades. It amends, but does not replace, the 1983 Act. Full implementation will be gradual, with some provisions taking effect from 18 February 2026, and others scheduled over an 8–10-year period.

IMHA services must understand these reforms because they significantly alter detention criteria, treatment safeguards, patients' rights, and the role of representatives.

2. Overarching Principles of the Reforms

The 2025 Act embeds four statutory principles, which should guide all decisions:

1. **Choice and Autonomy** – increased patient participation in care and treatment decisions.
2. **Least Restriction** – detention and compulsory treatment only when genuinely necessary.
3. **Therapeutic Benefit** – interventions must demonstrably improve or prevent deterioration in mental health.
4. **Person as an Individual** – respect for personal history, views, identity, and needs.

These principles strengthen the advocacy basis for IMHAs, who will be expected to ensure that all statutory bodies actively apply them.

3. Key Legislative Changes Affecting Detention

3.1 Higher Threshold for Detention

A new **"**serious harm" test now applies to sections 2 and 3 detentions. Detention requires evidence that serious harm may be caused to the patient's health/safety or that of others, considering the nature, degree, and likelihood of harm.

Impact for IMHAs

- IMHAs should scrutinise whether clinicians have properly evidenced serious harm.
- Advocacy should challenge detentions relying on outdated or insufficient risk formulations.

3.2 Learning Disability & Autism

People with learning disabilities or autism may no longer be detained under section 3 unless they have a co-occurring psychiatric disorder requiring treatment that meets the detention criteria.

Impact for IMHAs

- Increased need to challenge inappropriate use of section 3 for autistic or LD patients.
- More emphasis on community alternatives.

4. Changes to Compulsory Treatment

4.1 New Safeguards for Treatment Refusal

The Act strengthens protections for patients with capacity who refuse treatment, including:

- A requirement for "compelling reasons" to override capacitous refusal.
- Mandatory involvement of a Second Opinion Appointed Doctor (SOAD) for many treatments.

- Electro-convulsive therapy (ECT) cannot be given without SOAD certification where a patient refuses or has a valid advance decision.

Impact for IMHAs

- Greater opportunity to support patient choice and uphold autonomy.
- IMHAs may be more involved in explaining rights around treatment refusals and advance decisions.

5. Introduction of the "Nominated Person"

The **"**nearest relative" is replaced by a "nominated person" (NP) chosen by the patient (if they have capacity).

The NP has expanded rights, including:

- Being consulted on care and treatment plans.
- The right to object to community treatment orders (CTOs).
- Statutory involvement in admission, discharge, and transfer processes.

Impact for IMHAs

- IMHAs will need to support patients to:
    - Understand the NP role.
    - Choose an NP.
    - Challenge decisions if an NP is not being properly consulted.

6. Conditional Discharge and Deprivation of Liberty

From 18 February 2026, section 35 MHA 2025 introduces a power for the Tribunal or the Secretary of State to impose conditions amounting to a deprivation of liberty (DoL) as part of a conditional discharge, where necessary to protect others from serious harm.

Impact for IMHAs

- Advocates must ensure patients understand restrictions attached to their discharge.
- There is a new requirement to check whether less restrictive alternatives have been genuinely considered.

7. Tribunal Access and Processes

The Act improves access to the First-tier Tribunal, including:

- Earlier and more frequent automatic referrals.
- Revised periods for applications and renewal periods, including a reduced initial section 3 period (three months).

Impact for IMHAs

- Increased need for timely representation and preparation.
- More frequent tribunal hearings may increase IMHA caseloads.

8. Statutory Care & Treatment Plans

All detained patients must now have a statutory care and treatment plan, including:

- Clear articulation of therapeutic benefit.
- Patient involvement in planning.
- Documented consideration of alternatives to detention.

Impact for IMHAs

- IMHAs will need to verify that:
    - Plans are completed.
    - Patients' wishes are properly recorded.

    - There is compliance with least-restriction and therapeutic-benefit principles.

9. Places of Safety and Criminal Justice Provisions

- Police stations and prisons are removed as “places of safety.”
- Limited provisions commencing February 2026 particularly affect restricted patients in the criminal justice system.

Impact for IMHAs

- Patients should be diverted to health-appropriate settings.
- IMHAs may need to challenge inappropriate use of police facilities.

10. Implementation Timetable

- Some changes began 18 February 2026 (primarily relating to conditional discharge and restricted patients).
- Most reforms will be introduced gradually over 8–10 years after consultation and new Codes of Practice.

Impact for IMHAs

- IMHA services must stay updated, as obligations will expand with each phase.
- Training and internal policy updates will be essential.

11. Key Advocacy Priorities Under the New Framework

IMHAs may wish to prioritise:

1. Ensuring detention thresholds are met under the new serious-harm test.
2. Protecting capacitous refusals of treatment and supporting advance choice.
3. Empowering patients to select and use a “nominated person.”

4. Challenging inappropriate detention of people with autism or LD.
5. Monitoring the use of DoL-type conditions in conditional discharges.
6. Supporting patients with increased tribunal access and earlier review opportunities.
7. Ensuring statutory care and treatment plans are compliant and patient-centred.

12. Conclusion

These reforms aim to create a more rights-based, patient-centred, and therapeutically focused framework. IMHA services will have an increasingly critical role in ensuring that the new statutory duties are implemented properly and that the voices of detained patients remain central in all decisions.

Appendix: Commencement Timetable

Reform / Feature	**Status**	**Commencement Date**
Royal Assent	Enacted	**18 Dec 2025**

Conditional discharge with DoL conditions (s.35)	In force	**18 Feb 2026**
Amendments to ss. 42, 48, 71, 73, 75	In force	**18 Feb 2026**
Higher detention threshold (“serious harm”)	Not yet commenced	Date TBC
Autism/LD restriction on s.3 detention	Not yet commenced; dependent on community provision	Date TBC
Nominated Person	Not yet commenced	Date TBC
Statutory care & treatment plans	Not yet commenced	Date TBC
Shortened s.3 detention periods	Not yet commenced	Date TBC
Increased tribunal access	Not yet commenced	Date TBC
Removal of police stations/prisons as “places of safety”	Not yet commenced	Date TBC
Full implementation of wider reforms	Phased over 8–10 years	2026–2036