

*These notes relate to the Mental Health (Care and Treatment) (Scotland)  
Act 2003 (asp 13) which received Royal Assent on 25 April 2003*

# **MENTAL HEALTH (CARE AND TREATMENT) (SCOTLAND) ACT 2003**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 1 - Introductory**

##### ***Section 2: welfare of the child***

15. **Section 2** requires that where a person is discharging a function under the 2003 Act which may be discharged in more than one manner in respect of a patient aged under 18, the person shall act in the manner which best secures the welfare of the child. The section sets out how the general principles in section 1 apply in respect of children. The section does not impose duties on the patient or any of the persons mentioned in section 1(7).
16. In deciding how to best secure the welfare of the child, the person discharging the function is to have regard to subsections (3), (5) and (6) of section 1. That person must also have regard to the importance of acting in the manner which involves the minimum necessary restriction on the freedom of the child.