

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

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 11 – Hospital Directions and Transfer for Treatment Directions**

##### **Proceedings before Tribunal**

##### ***Section 215: powers of Tribunal on reference under section 210(3), 211(2) or 213(2) or on application under section 214(2)***

385. *Section 215* sets out the powers of the Tribunal on an application by the patient or the patient's named person or on a reference by the Scottish Ministers
386. Under subsection (2), where the Tribunal is satisfied that the patient has a mental disorder and that the effect of it makes it necessary, in order to protect others from serious harm, for the patient to be detained in hospital, whether for treatment or not, the Tribunal shall make no direction to the Scottish Ministers, with the effect that the direction to which the patient is subject continues to apply.
387. Under subsection (3), where the Tribunal is not satisfied that the patient has a mental disorder, it must direct the Scottish Ministers to revoke the direction to which the patient is subject.
388. Under subsection (4), the Tribunal must again direct the Scottish Ministers to revoke the direction to which the patient is subject if the Tribunal is satisfied that the patient has a mental disorder, is not satisfied that it makes it necessary to detain the patient in hospital to protect others from serious harm and is not satisfied that the criteria in section 206(4)(b) and (c) are met.
389. Under subsection (5), where directed to do so by the Tribunal under subsection (3) or (4), the Scottish Ministers must revoke the direction to which the patient is subject.
390. Before making a decision, the Tribunal must hold a hearing and allow the persons listed in subsection (7) the opportunity to make representations and give evidence (subsection (6)).