

*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 17 – Patient Representation**

##### *Chapter 1: named persons*

##### *Section 255: named person: mental health officer's duties*

493. This section places a duty on a mental health officer, in discharging a function under the 2003 Act or the 1995 Act, where it is necessary for that purpose to establish whether the patient has a named person, to take steps to find out whether a person has a named person and if so, who it is (subsections (1) and (2)).
494. Subsections (3) to (5) address the situation where the officer is unsuccessful. The officer is required to record the steps taken to identify the named person and must then give a copy of the record to the Tribunal and the Commission.
495. Where the officer does identify the named person but considers that the person is inappropriate, the officer must apply to the Tribunal for an order under section 257 appointing another person to be the named person (subsection (6)).
496. Subsection (7) empowers a mental health officer, when discharging any function under the 2003 Act in relation to a patient who has no named person, or where the named person seems inappropriate, to apply to the Tribunal for an order under section 257.