

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

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 18 – Miscellaneous

Section 274: Code of Practice

534. [Section 274](#) requires the Scottish Ministers to publish a Code of Practice to give guidance to people discharging functions by virtue of the 2003 Act or, as a result of the amendment made by the 2004 Order, Part VI of the 1995 Act. Before publishing the Code, Ministers must consult and lay a draft before Parliament. The Code may be revised periodically.
535. Any person who has a function to discharge must have regard to the latest available version of the Code. This would include, in particular, medical practitioners and mental health officers. The Code does not bind the Tribunal, the courts or the Commission, nor as a result of an amendment made by the 2004 Order, a prosecutor. However, those persons would be entitled to have regard to whether other parties exercising those functions had properly applied the Code.