

*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 19 – Entry, Removal and Detention Powers**

##### ***Section 292: entry to premises***

578. **Section 292** deals with obtaining access to premises where an authorised person already has power under the 2003 Act to take a patient to any place or into custody.
579. Subsection (1) gives a sheriff or justice of the peace the power to grant a warrant which would authorise a person, who already has authority to take a patient to a place or into custody, to enter premises specified in the warrant. Such a warrant may only be granted, firstly, where it is necessary to enable the authorised person to fulfil the purpose for which he or she had previously been authorised; and secondly, where the sheriff or justice of the peace is satisfied the authorised person cannot obtain, or cannot reasonably expect to obtain, entry to those premises (see subsection (2)). A warrant issued under this section also authorises a mental health officer for the area in which the premises are situated and a police constable to enter the premises. It further authorises a local constable to open lock-fast places on the premises where this is necessary to gain entry (see subsection (3)).
580. Subsection (4) provides that, in executing a warrant under subsection (1), a person may be accompanied by a medical practitioner and any other person who is authorised to take the patient to a place or into custody.