

*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**

##### *Sections 293 to 296: removal order*

##### **Application for a removal order**

581. [Section 293\(1\)](#) confers on a sheriff the power to grant a removal order, on the application of a mental health officer for the area in which the premises to which the order relates are situated. A removal order may be granted where the sheriff is satisfied that a person over the age of 16 has a mental disorder, is vulnerable in one of a number of ways laid out in subsection (2) and is likely to suffer significant harm if not removed to a place of safety.
582. A removal order authorises the removal, within 72 hours, of the person who is the subject of the order to a specified place of safety and his or her detention in that place for a specified period of up to 7 days. Such an order also grants authority to enter premises and to open lock-fast places.
583. Subsections (4) to (7) deal with procedural aspects of removal orders.
584. Where it is impracticable for an application for a removal order to be made to a sheriff and any delay in obtaining an order is likely to be prejudicial to the person concerned, section 294 allows the application to be made to a justice of the peace for the commission area in which the premises are situated. The grounds for, and terms of, the order, would be the same as for an order under section 293.