

# **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 299: nurse’s power to detain pending medical examination***

598. This section empowers certain nurses to detain certain categories of patients who are already in hospital receiving treatment for mental disorder. The first category is a patient who is detained in hospital and being given medical treatment by virtue of an order made under section 228(1) of the 1995 Act. The second category is patients whose presence in hospital does not arise from any provision of the 2003 Act or the 1995 Act. The nurse may hold the patient for a period of up to two hours or until a medical practitioner arrives, whichever is the sooner, and, where the doctor arrives after the first hour, for a further period of one hour from his or her arrival.
599. A nurse may exercise such a power where it appears that:
- a medical examination is necessary to ascertain whether an emergency detention certificate or a short-term detention certificate may be appropriate;
  - the patient has a mental disorder ;
  - it is necessary for the protection of the health, safety or welfare of the patient or the safety of any other person to prevent the patient from leaving;
  - it is not practicable to secure an immediate medical examination of the patient.
600. The power is only available to a nurse who falls within a class prescribed in regulations.
601. As soon as is practicable after the detention period begins, the nurse exercising the power must take all reasonable steps to inform a mental health officer of the detention. Subsections (6) to (8) provide that the nurse must also make a written record of matters relating to the detention and deliver that record to the hospital managers who must forward a copy to the Commission.
602. Subsection (9) preserves any subordinate legislation made under section 25 of the 1984 Act in force immediately before the day on which section 299 comes into force.
603. [Section 300](#) provides a definition of “place of safety”.