

*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 21 – Offences

Section 313: persons providing care services: sexual offences

623. **Section 313** creates an offence where a carer or a member of staff, or someone working in or managing a hospital (other than the Scottish Ministers) engages in a sexual act, as specified in subsection (1), with a patient for whom he or she cares. Again, there is a defence available to an accused who did not know or could not reasonably be expected to know that the patient was mentally disordered. The offence does not apply where the person concerned is married to the patient, or there was an ongoing sexual relationship between them. The offence attracts a maximum sentence of 2 years' imprisonment.