

*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 7 – Compulsory Treatment Orders**

##### *Chapter 1: application for, and making of, orders*

#### **Pre-application procedures**

##### *Sections 59 to 62: duties and powers of mental health officer on receiving reports*

100. On receipt of the mental health reports (defined in section 57(4)) produced by virtue of section 57, the mental health officer is required to interview the patient and comply with the other requirements in section 61(2); to take steps to identify the patient's named person (section 59); to co-ordinate the preparation of a proposed care plan in respect of the patient (section 62); and to prepare a report and application to the Tribunal (sections 61 and 63).
101. [Section 57\(7\)](#) requires the application for a compulsory treatment order to be submitted to the Tribunal within 14 days of the later of the two medical examinations.
102. Before making an application, the mental health officer must give notice to the persons listed in section 60(1) of the fact that an application is to be made. Notice need not be given to the patient if a mental health report provided by an approved medical practitioner has indicated that notice should not be given. However, the mental health officer may override the advice of the approved medical practitioner where he or she considers it appropriate and may give such notice all the same. This provision does not, however, relieve the mental health officer of the duty to inform the patient of the proposed application and of the availability of advocacy services at the point at which the mental health officer is preparing the report required under section 61.
103. [Section 61\(4\)](#) sets out the information which must be included in the mental health officer's report. The mental health officer is required by section 57 to submit an application whether or not that officer considers the powers sought are appropriate; but he or she may nonetheless express views on the mental health reports (section 61(4)(f)). Any difference in views between the mental health officer and the medical practitioners will be a matter for the Tribunal to consider. The report must also give details of any advance statement (see sections 275 and 276) which the patient has made and of which the mental health officer is aware.
104. [Section 62](#) requires that the proposed care plan be prepared by the mental health officer in consultation so far as practicable with the medical practitioners who produced the mental health reports and with other persons or agencies who will be providing services, treatment or care to the patient. The plan must contain the information set out in subsection (5).