

*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 4: review of orders*

#### **Variation of order: application by responsible medical officer**

##### *Sections 93, 95, 96, 97, 104 and 106 to 108: recorded matters – reference to Tribunal by responsible medical officer*

144. **Section 93** also imposes a duty on the patient's responsible medical officer which is additional to the duties imposed by sections 77 and 78. The responsible medical officer must periodically consider whether a compulsory treatment order should be varied by modifying the measures or recorded matters specified. Subsection (4) details the steps which the officer must take and those who must be consulted. If the officer's views then remain that the order requires to be varied, he or she must apply to the Tribunal under section 95 for an appropriate order.
145. The section has been modified by the 2004 Order which adds to the required steps in the process which the mental health officer must take when notified that the responsible medical officer is proposing to apply to the Tribunal. These include interviewing the patient and giving the patient information about various matters, including the availability of advocacy services and how to access those, and the patient's rights in relation to an application to the Tribunal. There are corresponding amendments to section 95.
146. **Section 96** sets out the procedure to be followed by the responsible medical officer where he or she is satisfied that any recorded matter specified in the compulsory treatment order is not being provided. Where this happens, the responsible medical officer must make a reference to the Tribunal (subsection (3)) after having regard to the views of the mental health officer and any other persons he or she considers appropriate.
147. **Section 97** states which persons the responsible medical officer must notify once he is required to make a reference to the Tribunal under section 96(3).
148. **Section 104** sets out the powers of the Tribunal on a reference under section 96. In addition it may make an interim order under section 106, in which case sections 107 and 108 apply (see paragraphs 142 to 143 of these Notes).