

MENTAL HEALTH (CARE AND TREATMENT) (SCOTLAND) ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 19 – Entry, Removal and Detention Powers

Sections 297 and 298: removal to a place of safety from a public place

589. Subsection (1) gives a police constable the power to remove from a public place a person who appears to be mentally disordered and who appears to be in immediate need of care or treatment, to a place of safety.
590. Detention for up to 24 hours is allowed for the purpose of enabling the person to be medically examined and the making of necessary arrangements for the person's care and treatment (subsection (2)).
591. Subsection (3) allows a constable to detain a person who tries to abscond during that period, to take the person into custody and remove him or her to a place of safety.
592. Subsection (4) explains what is meant by a "public place". It includes, for example, the common stair of a tenement building.
593. Where no place of safety is immediately available the person may be removed to a police station (subsection (5)).
594. [Section 298](#) imposes certain duties where a constable has exercised the power in section 297.
595. The constable must ensure as soon as reasonably practicable that the local authority in whose area the place of safety is situated and the nearest relative of the patient are informed of the matters listed in subsection (3).
596. The constable must also ensure that the Commission is given notice of the same matters within 14 days of the day on which the person was removed to a place of safety.
597. Subsections (4) and (5) provide that where it is impracticable to inform the nearest relative or where the nearest relative, although informed, does not reside with the person who has been removed, the constable must ensure that a person who resides with the person, provides a care service to the person or provides care to the person on a certain basis, is informed of the matters listed in subsection (3).