

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 10 - Compulsion Orders and Restriction Orders

Chapter 2: review of orders

Reference to Tribunal by Scottish Ministers

Section 185: duty of Scottish Ministers on receiving report and recommendation from responsible medical officer

334. Where the responsible medical officer submits a report to the Scottish Ministers under section 183(2) or 184 which contains a recommendation (section 184 reports are submitted only where there is a recommendation by the responsible medical officer to change the orders applicable), the Scottish Ministers must refer the patient's case to the Tribunal. Notice of the proposed reference must be given to the persons listed in subsection (2) before it is made. The reference must state the information set out in subsection (3).

Section 186: Commission's power to require Scottish Ministers to make reference to Tribunal

335. **Section 186** gives power to the Commission to require the Scottish Ministers to refer the compulsion order and restriction order to which a patient is subject to the Tribunal, if the Commission considers that such a reference is appropriate. The Commission must notify the Scottish Ministers of this requirement in writing and include its reasons for making the request.

Section 187: duty of Scottish Ministers to refer to Tribunal if required to do so by Commission

336. **Section 187** provides that, where the Commission has notified the Scottish Ministers under section 186, the Scottish Ministers have a duty to refer the case to the Tribunal. Notice of the reference must be given to the persons listed in paragraphs (a) to (g) of section 185(2) and it must state the information set out in section 187(4). The Scottish Ministers should, if possible, notify those persons before making the reference.