

*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 11 – Hospital Directions and Transfer for Treatment Directions

Scottish Ministers' duty to keep directions under review

Section 213: reference to Tribunal by Scottish Ministers

379. **Section 213** imposes a duty on the Scottish Ministers to refer a patient's case to the Tribunal 2 years after the making of the hospital direction or transfer for treatment direction if no reference or application has been made to the Tribunal during that period. In addition, at the end of every year thereafter, the Scottish Ministers have a duty to review the previous 2 years and refer the patient's case to the Tribunal if no reference or application has been made to it during that 2 year period. In order to ensure that the Tribunal reviews the direction to which the patient is subject at least once every 2 years, subsection (3) provides that, in assessing whether there has been an application or reference to the Tribunal in a 2 year period, any reference made under this section during the first year of that period is ignored.
380. Notice of the reference to the Tribunal must be given by the Scottish Ministers to the persons listed in paragraphs (a) to (g) of subsection 210(4) and the reference must state the information set out in section 213(5). This section operates in the same way as section 189.