

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

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 16 – Medical Treatment

Designated medical practitioners

Section 233: designated medical practitioners

426. Subsection (1) of section 233 requires the Commission to maintain a list of medical practitioners (referred to in the 2003 Act as “designated medical practitioners”) who will perform functions under this Part. As well as having such qualifications and experience as the Commission considers appropriate, designated medical practitioners must undergo training if required to do so by the Commission.
427. The Commission is required to include child specialists on the list. Part 16 requires that such a specialist should be involved in certain treatment decisions about a child or young person which attract special safeguards.
428. Subsection (4) confers certain powers on designated medical practitioners to allow them to perform the functions given to them under this Part, namely powers to:
- interview the patient in private;
 - carry out a medical examination of the patient in private;
 - require those holding the relevant medical records to produce them; and
 - inspect the records produced.
429. There is provision in subsection (6) for the Commission to pay fees, expenses or allowances to designated medical practitioners.

Sections 234 to 236: safeguards for certain surgical operations etc

430. **Sections 234 to 236** apply to any patient irrespective of whether the giving of medical treatment to a particular patient is authorised by virtue of the 2003 Act or the 1995 Act.
431. Subsection (1) of section 234 provides that the types of medical treatment mentioned in subsection (2) may be given to a patient only in accordance with the safeguards set out in sections 235 and 236. Subsection (2) specifies any surgical operation that destroys brain tissue or the functioning of brain tissue (generally known as neurosurgery for mental disorder) and enables the Scottish Ministers to consult appropriate persons before making regulations specifying other types of medical treatment that will attract the same special safeguards.