

*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 16 – Medical Treatment

Patients capable of consenting and not refusing consent

441. Subsection (1) of [section 238](#) sets out the conditions that must be met before medical treatment under sections 237 and 240 may be given to patients who can and do consent. The patient must consent in writing and either the responsible medical officer or a designated medical practitioner must certify that this consent has been given and that the treatment is in the patient's best interests having regard to the likelihood of the treatment's alleviating or preventing a deterioration in the patient's condition.
442. Subsection (3) provides that if the patient is aged under 16, the certificate under subsection (1) must be given by a child specialist.