

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 5 – Emergency Detention

Sections 37 to 40: actions following emergency detention

Medical examination following admission

74. [Section 38](#) imposes on the managers of the hospital in which the patient is detained a duty to arrange for an approved medical practitioner to carry out a medical examination of the patient. [Section 39](#) provides that the approved medical practitioner who examines the patient must revoke the certificate if satisfied that the criteria for emergency detention listed at [section 36\(4\)](#) and [\(5\)\(b\)](#) are no longer met or if it is no longer necessary for the patient to be detained in hospital on the authority of the emergency detention certificate. If the emergency detention certificate is revoked, the practitioner must inform both the patient and the hospital managers of the revocation ([section 40\(1\)](#)). The hospital managers must then inform the parties listed at subsections (4) and (5) of [section 38](#) that the certificate has been revoked ([section 40\(2\)](#)).