

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

Scottish Ministers' duty to keep orders under review

Section 189: reference to Tribunal by Scottish Ministers

339. **Section 189** imposes a duty on the Scottish Ministers to refer a patient's case to the Tribunal two years after the making of the compulsion order and restriction order if no reference or application has been made to the Tribunal during that period.
340. In addition, at the end of each 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.
341. In order to ensure that the Tribunal reviews the compulsion order and restriction order 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 under this section during the first year of that period is ignored.
342. Notice of the reference to the Tribunal must be given by the Scottish Ministers to the persons listed in paragraphs (a) to (g) of section 185(2) and the reference must state the information set out in section 189(5).