

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

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 10 - Compulsion Orders and Restriction Orders

Chapter 3: conditional discharge

Section 200: variation of conditions imposed on conditional discharge

360. **Section 200** gives the Scottish Ministers power to vary the conditions imposed by the Tribunal on a patient who has been conditionally discharged. If they do so, they must notify the persons listed in subsection (3) of the variation.

Section 201: appeal to Tribunal against variation of conditions imposed on conditional discharge

361. **Section 201** allows the patient and the patient's named person to appeal to the Tribunal against any variation imposed by the Scottish Ministers under section 200(2). The appeal must be lodged with the Tribunal within 28 days of the notice being given under section 200(3).
362. Subsection (3) provides that the Tribunal will treat an appeal under this section as an application for conditional discharge. Section 193 therefore applies and the Tribunal has the options that are available under that section.

Section 202: recall of patients from conditional discharge

363. **Section 202** provides that the Scottish Ministers can, by warrant, recall a conditionally discharged patient to hospital if they are satisfied that it is necessary for the patient to be detained in hospital.

Section 203: effect of recall from conditional discharge

364. **Section 203** provides that if, under section 202, the Scottish Ministers recall a patient to a hospital that is different to the one specified in the compulsion order, the hospital to which the patient is recalled shall effectively be substituted for the one specified in the order.

Section 204: appeal to Tribunal against recall from conditional discharge

365. **Section 204** provides that the patient and the patient's named person can appeal to the Tribunal against recall to hospital within 28 days of the recall from conditional discharge taking effect.

*These notes relate to the Mental Health (Care and Treatment) (Scotland)
Act 2003 (asp 13) which received Royal Assent on 25 April 2003*

366. Subsection (3) provides that the Tribunal will treat an appeal under this section as an application for conditional discharge. Section 193 therefore applies and the Tribunal has the options that are available under that section.