

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

SCHEDULE 1 (Introduced by Section 4): THE MENTAL WELFARE COMMISSION FOR SCOTLAND

655. The schedule sets out the new arrangements under which the Commission will operate and contains provisions as to the membership, organisation and operational arrangements for the Commission. Provision for the functions, rights and duties of the Commission are set out throughout the 2003 Act.

Part 1: membership, proceedings etc

656. [Paragraph 1](#) makes provision about the status of the Commission. It is not to be regarded as a servant or agent of the Crown or as having any Crown status, immunity or privilege. Its members or staff are not to be regarded as civil servants and its property is not Crown property.

657. [Paragraph 2](#) gives the Commission certain general powers.

658. [Paragraph 3](#) deals with Commission membership. Commissioners are appointed by Her Majesty on the recommendation of the Scottish Ministers. The Commission must include a convenor and at least three commissioners holding such qualifications, training and experience as may be prescribed (“medical commissioners”). Other members who meet any other requirements as may be prescribed may also be appointed.

659. [Paragraph 3\(2\)](#) makes the chief officer of the Commission a member *ex officio* and provides for the cessation of membership on termination of office.

660. [Paragraph 3\(2\)](#) gives the Scottish Ministers power, by order, to amend the arrangements for the number and categories of commissioners.

661. [Paragraph 4](#) makes provision about terms of office and [paragraph 5](#) deals with eligibility for reappointment.

662. [Paragraph 6](#) deals with the remuneration, pensions and allowances of commissioners and members of sub-committees who are not commissioners.

663. [Paragraph 7](#) deals with the appointment and remuneration of Commission staff as well as pensions arrangements.

664. [Paragraph 8](#) permits regulations to be made enabling the delegation of Commission functions to committees and sub-committees, and on their procedures.

665. [Paragraph 9](#) deals with Commission accounts.

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Part 2: transitional provisions

666. **Part 2** contains transitional arrangements for the Commission. It makes provision amending sections 2 and 6 of the 1984 Act which concern the appointment of a chief officer to the Commission to provide that his or her powers as a member of the Commission are *ex officio*.