

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

Section 36: emergency detention in hospital

Issuing the emergency detention certificate

65. Any medical practitioner may grant an “emergency detention certificate” if the conditions in subsection (1) are met. Before granting the certificate, the medical practitioner must examine the patient (subsection (1)(a)). Regulations may provide circumstances which preclude a medical practitioner from carrying out an examination where there may be a conflict of interest.
66. To reflect the urgency of the situation, a certificate can be granted only within the strict time limits which are set out in subsection (12). Those time limits are calculated by reference to the time when the medical examination is completed.
67. A patient cannot be detained under the emergency procedure if, immediately before the examination is carried out, the patient was detained in hospital under any of the authorisations listed in subsection (2).