

# **MENTAL HEALTH (PUBLIC SAFETY AND APPEALS) (SCOTLAND) ACT 1999**

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## **EXPLANATORY NOTES**

### **THE ACT**

#### *General*

8. The Act has two main purposes:
  - The first is to add a new criterion to the statutory tests applied by a sheriff or the Scottish Ministers when considering whether to order the discharge of a restricted patient. The sheriff and the Scottish Ministers must now *refuse* to order a discharge (either conditional or absolute) if satisfied that the patient has a mental disorder, the effect of which is that continuing detention in hospital is necessary to protect the public from serious harm. That is so whether or not the patient is to receive medical treatment for the mental disorder.
  - The second is to introduce a right of appeal against a decision, notification or recommendation of a sheriff in relation to an appeal brought by a restricted patient in terms of Part VI of the 1984 Act. The right of appeal against the sheriff's decision, notification or recommendation is conferred on both the patient and the Scottish Ministers. The appeal is to the Court of Session.
9. The Act also provides that the term 'mental disorder', where it appears in the 1984 and 1995 Acts, includes a personality disorder.