



# Mental Health (Care and Treatment) (Scotland) Act 2003

## 2003 asp 13

### PART 18

#### MISCELLANEOUS

##### *Cross-border transfer of patients*

#### **289 Cross-border transfer: patients subject to requirement other than detention**

- (1) Regulations may make provision for or in connection with the removal of a patient subject to a relevant requirement from Scotland to a place outwith Scotland (whether or not a place in the United Kingdom).
- (2) Where that provision is made, the regulations shall—
  - (a) require a patient's removal to be authorised by warrant issued by the patient's responsible medical officer;
  - (b) provide that a responsible medical officer may give that authority only—
    - (i) where the patient has notified the responsible medical officer of the patient's wish to be so removed; or
    - (ii) where, in the case where the patient is not capable of giving that notification, the patient's named person has notified the responsible medical officer that that person considers that it is in the patient's best interests to be so removed;
  - (c) provide that the responsible medical officer may give that authority only if satisfied that there are in existence, in the place to which the patient is to go after being so removed, arrangements which will secure for the patient measures, treatment, care or services corresponding or similar to those which the patient is subject to or is receiving by virtue of this Act or, as the case may be, the 1995 Act;
  - (d) require a patient's responsible medical officer, before making a decision whether to authorise the removal of the patient, to notify—
    - (i) except where notification referred to in paragraph (b) above has been given by the patient's named person, that person;

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*Status: This is the original version (as it was originally enacted).*

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- (ii) the mental health officer; and
    - (iii) the Commission,of the circumstances of the case; and
  - (e) authorise a patient's responsible medical officer to give directions in connection with the removal of the patient.
- (3) References in this section to—
- (a) a relevant requirement are, as respects a patient, references to a requirement imposed in relation to the patient under section 66(1) of this Act or section 57A(8) of the 1995 Act, not being detention in a hospital;
  - (b) a patient subject to a relevant requirement include references to a patient in respect of whom section 128(1) (either as enacted or as applied by section 179 of this Act) is in operation.