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SCOTTISH STATUTORY INSTRUMENTS

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**2005 No. 452**

**The Mental Health (Care and Treatment) (Scotland) Act  
2003 (Transitional and Savings Provisions) Order 2005**

**PART 5**

**RESTRICTION ORDERS**

**Restriction orders**

**20.**—(1) A restricted patient shall be treated as if a compulsion order under section 57A(2) of the 1995 Act and a restriction order under section 59 of the 1995 Act had been made in respect of that patient.

(2) For the purposes of sections 182(5) and 192(4) the compulsion order shall be deemed to have been made when the hospital order to which the patient was subject immediately before 5th October 2005 was made or is treated as having been made.

(3) Notwithstanding section 189(6), the relevant day in respect of a restricted patient is the day which falls 2 years after the day when the hospital order was made or the anniversary of that day, whichever falls in the period of 12 months prior to 5th October 2005.

(4) Where a restricted patient has made an appeal under section 63 of the 1984 Act that patient shall be treated—

- (a) where the appeal was made in any period of 12 months beginning with the date of the hospital order under which that patient was detained, as if an application had been made to the Tribunal under section 192 of the 2003 Act in the period mentioned in section 192(5)(a); or
- (b) where the appeal was made in any subsequent period of 12 months, as if an application had been made to the Tribunal under section 192 of the 2003 Act in the period mentioned in section 192(5)(b).

(5) Where a restricted patient has made an appeal under section 66 of the 1984 Act in the 12 months ending with 4th October 2005, that patient shall be treated as if that appeal had been an application under section 192 of the 2003 Act.

(6) When for the first time in respect of any restricted patient on or after 5th October 2005 the Scottish Ministers make a reference to the Tribunal under section sections 185(1) or 187(2) or an application under section 191 of the 2003 Act, they shall send to the Tribunal a report from the patient's mental health officer such as is mentioned in article 10(8) and a copy of the most recent care plan for the patient.