
SCOTTISH STATUTORY INSTRUMENTS

2005 No. 467

**The Mental Health (Cross border transfer:
patients subject to detention requirement or
otherwise in hospital) (Scotland) Regulations 2005**

**PART I
GENERAL**

Citation, commencement, interpretation and extent

1.—(1) This Order may be cited as the Mental Health (Cross border transfer: patients subject to detention requirement or otherwise in hospital) (Scotland) Regulations 2005 and shall come into force on 5th October 2005.

(2) In these regulations—

“the 1995 Act” means the Criminal Procedure (Scotland) Act 1995⁽¹⁾;

“the 2003 Act” means the Mental Health (Care and Treatment) (Scotland) Act 2003;

“detention in hospital authorised by virtue of the 2003 Act or the 1995 Act” shall be construed in accordance with section 290(7) of the 2003 Act;

“reception in Scotland” means—

- (a) in respect of person who was subject to relevant measures in a relevant territory immediately before leaving the relevant territory, the admission of the person to hospital in Scotland; and
- (b) in respect of a patient who falls within regulation 30(3), the arrival of the person at the place in Scotland at which they are to reside,

and “received in Scotland” shall be interpreted accordingly;

“relevant measures” means corresponding measures as mentioned in section 290(8)(a) of the 2003 Act;

“relevant local authority” means—

- (a) if the patient was living in Scotland at the time, the local authority for the area in which the patient was resident before being admitted to hospital; or
- (b) if the patient was not resident in Scotland before being admitted to hospital the local authority for the area in which the hospital is situated;

“relevant territory” means—

- (a) England and Wales,
- (b) Northern Ireland,
- (c) any of the Channel Islands, or

(d) the Isle of Man;

“responsible medical officer”, as it applies to a patient who falls within paragraph (2)(b) of regulation 2, means the medical practitioner who is primarily responsible for treating the patient while in hospital, and in all other cases it has the same meaning as in the 2003 Act;

“temporary compulsion order” means an order made under section 54(1)(c) of the 1995 Act;

“the receiving hospital” is the hospital mentioned in regulation 24(4)(f);

“the sending hospital” is the hospital mentioned in regulation 24(4)(e); and

“warrant for removal” means a warrant issued under regulation 10.

Application of Regulations

2.—(1) Subject to paragraph (4), Parts II and III of these Regulations apply to persons as provided for in paragraphs (2) and (3).

(2) Part II applies to—

(a) the removal, of a patient whose detention in hospital is authorised by virtue of the 2003 Act or the 1995 Act, from Scotland to a place outwith Scotland (whether or not a place in the United Kingdom); and

(b) the removal, of a patient who for the purposes of being given treatment for mental disorder is in hospital otherwise than by virtue of the 2003 Act or the 1995 Act, from Scotland to a place outwith the United Kingdom.

(3) Part III applies to the reception in Scotland of a person subject to relevant measures in a relevant territory and removed from there.

(4) Nothing in these Regulations authorises the removal from Scotland of a patient subject to—

(a) a treatment order;

(b) an assessment order;

(c) an interim compulsion order;

(d) a temporary compulsion order;

(e) remand for inquiry into the person’s mental condition under section 200(2)(b) of the 1995 Act,

or the reception in Scotland of a person subject to measures corresponding or similar to those referred to in this paragraph in a relevant territory.