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SCOTTISH STATUTORY INSTRUMENTS

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**2008 No. 356**

The Mental Health (England and Wales Cross-border transfer: patients subject to requirements other than detention) (Scotland) Regulations 2008

PART III

RECEPTION OF PERSONS IN SCOTLAND

**Assessment of patients: post transfer**

**25.**—(1) The patient's responsible medical officer shall within 7 days of the patient's reception in Scotland carry out an assessment of the patient in accordance with the requirements of paragraph (2).

(2) Those requirements are—

- (a) to carry out a medical examination of the patient;
- (b) to consult and have regard to the views of the patient's mental health officer designated under section 229 of the 2003 Act as applied by virtue of regulation 17; and
- (c) to consider—
  - (i) whether the conditions in paragraph (4) apply in respect of the patient; and
  - (ii) whether it continues to be necessary for the patient to be subject to the measures authorised by the 2003 Act or the 1995 Act to which the patient became treated as the patient was subject by virtue of regulation 19.

(3) Where a medical examination is carried out under paragraph (2) there must not be a conflict of interest in relation to the medical examination.

(4) The conditions referred to in paragraph (2)(c)(i) are—

- (a) where the patient has, by virtue of regulation 19 become treated as if they are subject to a compulsory treatment order—
  - (i) that the patient has a mental disorder;
  - (ii) that medical treatment which would be likely to—
    - (aa) prevent the mental disorder worsening; or
    - (bb) alleviate any of the symptoms, or effects of the disorder,is available for the patient;
  - (iii) that if the patient were not provided with such medical treatment there would be a significant risk—
    - (aa) to the health, safety or welfare of the patient; or
    - (bb) the safety or any other person; and
  - (iv) that because of the mental disorder the patient's ability to make decisions about the provision of such medical treatment is significantly impaired;

- (b) where the patient has, by virtue of regulation 19 become treated as if the patient is subject to a compulsion order–
    - (i) that the patient has a mental disorder;
    - (ii) that medical treatment which would be likely to–
      - (aa) prevent the mental disorder worsening ; or
      - (bb) alleviate any of the symptoms, or effects of the disorder,is available for the patient; and
    - (iii) that if the patient were not provided with such medical treatment there would be a significant risk–
      - (aa) to the health, safety and welfare of the patient; or
      - (bb) to the safety of any other person.
- (5) For the purposes of this regulation, the circumstances where there is to be taken to be a conflict of interest are those circumstances specified in the Mental Health (Conflict of Interest) (Scotland) (No. 2) Regulations 2005(1).