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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 II

REMOVAL OF PATIENTS FROM SCOTLAND

**Appeal to Tribunal**

8.—(1) Where notice is given under regulation 6 that a patient is not to be removed from Scotland, the patient or the patient's named person, may, during the period of 14 days beginning with the day on which notice is received, appeal to the Tribunal against the decision of the responsible medical officer not to authorise the proposed removal.

(2) In considering any appeal under paragraph (1) the Tribunal must have regard to the factors mentioned in regulation 5(2) and, in particular, before making any direction under paragraph (3)(b), must be satisfied that there are in existence in England or Wales arrangements which will secure for the patient measures, treatment, care or services corresponding or similar to those to which the patient is subject or is receiving by virtue of the 2003 Act or, as the case may be, the 1995 Act.

(3) On an appeal under paragraph (1) the Tribunal may:

- (a) make no direction to the responsible medical officer under this regulation; or
- (b) direct the responsible medical officer to issue a warrant for removal which shall authorise that patient's removal from Scotland, and that as soon as practicable after the direction is made, but subject always to any consent required under regulation 7(2) being obtained.

(4) The responsible medical officer shall, if so directed by the Tribunal under paragraph (3)(b), issue a warrant for removal, in accordance with regulation 7, which shall authorise that patient's removal from Scotland, and that as soon as practicable after the direction is made.