
STATUTORY INSTRUMENTS

1996 No. 295

MENTAL HEALTH

**The Mental Health (Patients in the Community)
(Transfers from Scotland) Regulations 1996**

<i>Made</i>	- - - -	<i>14th February 1996</i>
<i>Laid before Parliament</i>		<i>15th February 1996</i>
<i>Coming into force</i>	- -	<i>1st April 1996</i>

The Secretary of State for Health, in exercise of powers conferred on him by section 25J(2) of the Mental Health Act 1983(1) and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

Citation, commencement and interpretation

1. These Regulations may be cited as the Mental Health (Patients in the Community) (Transfers from Scotland) Regulations 1996 and shall come into force on 1st April 1996.

Modifications of provisions of the Mental Health Act 1983

2. The provisions of the Mental Health Act 1983 set out in column 1 of the Schedule to these Regulations shall apply in relation to a patient in respect of whom a supervision application is (or is to be) made subject to the modifications prescribed in column 2 of the Schedule.

Signed by authority of the Secretary of State for Health

14th February 1996

John Bowis
Parliamentary Under Secretary of State,
Department of Health

(1) 1983 (c. 20) as amended by the Mental Health (Patients in the Community) Act 1995 (c. 52) (“the 1995 Act”); section 25J was inserted by section 1(1) of the 1995 Act.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE

Regulation 2

MODIFICATIONS OF PROVISIONS OF THE MENTAL HEALTH ACT 1983
IN RESPECT OF PATIENTS SUBJECT TO COMMUNITY CARE ORDERS
IN SCOTLAND WHO INTEND TO RESIDE IN ENGLAND OR WALES

(1) Provision	(2) Modification
Section 25A(2)	<p>As if for subsection (1) there were substituted the following subsection—</p> <p>“(1) Where a patient is subject to a community care order made under section 35(A) (3) of the Mental Health (Scotland) Act 1984(3) (in this and the next section referred to as a “community care order”) an application may be made for him to be supervised upon his taking up residence in England or Wales, for the period allowed by the following provisions of this Act, with a view to securing that he receives the after-care services provided for him under section 117(4) below.”.</p> <p>As if in subsection (2) for “left hospital” there were substituted “taken up residence in England or Wales”.</p> <p>As if in subsection (4)(b) for “leaves hospital” there were substituted “takes up residence in England or Wales”.</p> <p>As if in subsection (5) for “the responsible medical officer” there were substituted “the registered medical practitioner who is proposed to be the community responsible medical officer”.</p> <p>As if in subsection (6) for “leaves hospital” there were substituted “takes up residence in England or Wales”.</p> <p>As if subsection (9) were omitted.</p>
Section 25B(5)	<p>As if in subsection (1) for “responsible medical officer” on both occasions the words appear there were substituted “practitioner”.</p> <p>As if in sub-paragraph (ii) of subsection (2)(a) for “in hospital” there were substituted “whilst he was subject to a community care order” and as if at the end of that sub-paragraph there were inserted “and the patient’s after-care officer (as</p>

(2) Section 25A is inserted by section 1(1) of the 1995 Act.

(3) 1984 (c. 36); section 35A was inserted by section 4(1) of the 1995 Act.

(4) Section 117 was amended by paragraph 107(8) of Schedule 1 to the Health Authorities Act 1995 (c. 17) and by paragraph 15 of Schedule 1 to the 1995 Act.

(5) Section 25B is inserted by section 1(1) of the 1995 Act.

(1) Provision	(2) Modification
	<p>defined in section 125(1) of the Mental Health (Scotland) Act 1984(6)".</p> <p>As if in subsection (2)(a)(iv) for “the responsible medical officer” there were substituted “the practitioner making the application” and as if for “leaves hospital” there were substituted “takes up residence in England or Wales”.</p> <p>As if in subsection (2)(c) for “the responsible medical officer” there were substituted “the practitioner making the application”.</p> <p>As if in subsection (3)(b) for “the responsible medical officer” there were substituted “the practitioner making the application”.</p> <p>As if for paragraph (a) of subsection (5) there were substituted the following paragraph—</p> <p style="padding-left: 40px;">“(a) that the patient is subject to a community care order;”.</p> <p>As if in subsection (5)(d) for “leaves hospital” there were substituted “takes up residence in England or Wales”.</p> <p>As if for paragraph (a) of subsection (6) there were substituted the following paragraph—</p> <p style="padding-left: 40px;">“(a) where available to the practitioner making the application the written recommendation of the patient’s special medical officer (as defined in section 125(1) of the Mental Health (Scotland) Act 1984) or, where this recommendation is not available to that practitioner, the written recommendation of any registered medical practitioner; and”.</p>
Section 25B	<p>As if for paragraph (b) of subsection (6) there were substituted the following paragraph—</p> <p style="padding-left: 40px;">“(b) where available to the practitioner making the application the written recommendation of the patient’s after-care officer (as defined in section 125(1) of the Mental Health (Scotland) Act 1984) or, where this recommendation is not available to that practitioner,</p>

(6) 1984 (c. 36); section 125(1) was amended by paragraph 10 of Schedule 2 to the 1995 Act.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(1) Provision	(2) Modification
	<p>the written recommendation of an approved social worker.”.</p> <p>As if in subsection (8) for “social worker” there were substituted “person making the recommendation”.</p> <p>As if in subsection (9)(a) and (b) for “leaves hospital” there were substituted “takes up residence in England or Wales”.</p> <p>As if in subsection (10) for “responsible medical officer” there were substituted “practitioner making it”.</p> <p>As if in subsection (11) for “leaves hospital” there were substituted “takes up residence in England or Wales”.</p>
Section 25C(7)	<p>As if subsection (3) were omitted.</p> <p>As if subsection (4) were omitted.</p> <p>As if subsection (5) were omitted.</p>
Section 25D(8)	<p>As if in subsection (1) for “(or, if he has not yet left hospital, is to be so subject after he leaves hospital)” there were substituted “(or, if he has not yet taken up residence in England or Wales, is to be so subject when he does take up residence there)”.</p>
Section 25G(9)	<p>As if in subsection (1)(a) for “leaves hospital” there were substituted “takes up residence in England or Wales”.</p>
Section 72(10)	<p>As if in subsection (4A) for “(or, if he has not yet left hospital, is to be so subject after he leaves hospital)” there were substituted “(or, if he has not yet taken up residence in England or Wales, is to be so subject when he does take up residence there)”.</p>
Section 76(11)	<p>As if in subsection (1)(a) for “(or, if he has not yet left hospital, is to be subject to after-care under supervision after he leaves hospital)” there were substituted “(or, if he has not yet taken up residence in England or Wales, is to be subject to after-care under supervision when he takes up residence there)”.</p>

(7) Section 25C is inserted by section 1(1) of the 1995 Act.
 (8) Section 25D is inserted by section 1(1) of the 1995 Act.
 (9) Section 25G is inserted by section 1(1) of the 1995 Act.
 (10) Section 72 is amended by paragraph 10 of Schedule 1 to the 1995 Act.
 (11) Section 76 is amended by paragraph 11 of Schedule 1 to the 1995 Act.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe modifications to sections 25A to 25I and other provisions of the Mental Health Act 1983 to enable patients who are subject to community care orders made under the Mental Health (Scotland) Act 1984, and who wish to move to England or Wales, to become subject to after-care under supervision (regulation 2 and the Schedule). Community care orders and after-care under supervision were introduced by the Mental Health (Patients in the Community) Act 1995 which amends the Mental Health Act 1983 and the Mental Health (Scotland) Act 1984.