



Adult Support and Protection (Scotland) Act 2007

2007 asp 10

PART 4

MENTAL HEALTH: MISCELLANEOUS AMENDMENTS AND REPEALS

- 71 Compulsory treatment orders and compulsion orders: cross-border transfer of patients etc.**
- (1) Section 289 (cross-border transfer of patients subject to requirements other than detention) of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13) is amended as follows—
- (a) in subsection (1)—
 - (i) the words from “the”, where first occurring, to the end of the subsection become paragraph (a),
 - (ii) at end insert—
 - “(b) the reception in Scotland of a person subject to corresponding requirements in England, Wales, Northern Ireland, the Isle of Man or the Channel Islands and removed from there.”,
 - (b) in subsection (2), for “that provision is made” substitute “provision is made by regulations under paragraph (a) of subsection (1) above”,
 - (c) after subsection (2) insert—
 - “(2XA) Where provision is made by regulations under paragraph (a) of subsection (1) above, the regulations may make provision for exceptions to provisions included in them by virtue of subsection (2) (d).
 - (2YA) Where provision is made by regulations under paragraph (b) of subsection (1) above, the regulations shall provide for the reception of persons to take place only if—
 - (a) the managers of a hospital consent to the reception; and
 - (b) those managers undertake to appoint an approved medical practitioner to be the person’s responsible medical officer.

Status: This is the original version (as it was originally enacted).

(2ZA) Regulations under subsection (1) above may in particular—

- (a) make provision for things done under the law of a territory other than Scotland to be treated as things done under provisions of the law of Scotland,
- (b) confer powers and immunities on persons engaged in—
 - (i) escorting persons being moved under the regulations;
 - (ii) pursuing persons who have absconded while being so moved;
 - (iii) restraining persons who have absconded, or attempt to abscond, while being so moved;
- (c) make provision amending provisions of this Act (other than this section) or any other enactment, or providing for any such provision or enactment to have effect with modification.”,
- (d) in subsection (2A), for “Subsection (2) above is” substitute “Subsections (2) to (2ZA) above are”,
- (e) after subsection (3) insert—

“(4) For the purposes of subsection (1)(b) above, a person is subject to “corresponding requirements” in a territory if under the law of that territory the person is subject to measures corresponding or similar to a requirement imposed in relation to a person under section 66(1) of this Act or section 57A(8) of the 1995 Act, not being detention in a hospital.”.

(2) In section 309 (patients from other jurisdictions) of that Act—

- (a) in subsection (1), after “to”, where third occurring, insert “corresponding requirements or”,
- (b) after subsection (2) insert—

“(2A) The reference in subsection (1) above to persons subject to corresponding requirements shall be construed in accordance with section 289(4) of this Act.”.

(3) In section 316(1)(c) (offence of inducing or assisting patient to abscond), after “section” insert “289 or”.

(4) In section 326(4)(c) (regulations subject to affirmative resolution) of that Act, after “286,” insert “289,”.