



Mental Health (Care and Treatment) (Scotland) Act 2003

2003 asp 13

PART 12

PARTS 10 AND 11: TRANSFERS

218 Transfer of patients between hospitals

- (1) This section applies where a patient is subject to—
 - (a) a compulsion order and a restriction order;
 - (b) a hospital direction; or
 - (c) a transfer for treatment direction.
- (2) The managers of the hospital in which the patient is detained may, where the conditions mentioned in subsection (3) below are satisfied, transfer the patient to another hospital.
- (3) Those conditions are—
 - (a) that the managers of the hospital to which it is proposed to transfer the patient; and
 - (b) the Scottish Ministers,consent to the transfer.
- (4) Where the managers of a hospital propose to transfer a patient under subsection (2) above, they shall, subject to subsections (5) and (7) below, give the persons mentioned in subsection (8) below at least 7 days' notice of the transfer.
- (5) The managers of a hospital need not give notice under subsection (4) above where it is necessary that the patient be transferred urgently.
- (6) Where, by virtue of subsection (5) above, no notice is given under subsection (4) above, the managers of the hospital shall, subject to subsection (7) below, give the persons mentioned in subsection (8) below notice—
 - (a) where the proposed transfer has not taken place, of the proposed transfer; or
 - (b) where the transfer has taken place, of the transfer,as soon as practicable before, on or, as the case may be, after the transfer.

Changes to legislation: *Mental Health (Care and Treatment) (Scotland) Act 2003, Section 218 is up to date with all changes known to be in force on or before 20 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (7) The managers of the hospital need not give notice under subsection (4) or (6) above to the patient where the patient consents to the transfer.
- (8) The persons referred to in subsections (4) and (6) above and (10)(b) below are—
 - (a) the patient; and
 - (b) the patient's named person.
- (9) Where—
 - (a) notice is given under subsection (4) or (6)(a) above of a proposed transfer under subsection (2) above; and
 - (b) the proposed transfer does not take place before the end of the period of 3 months beginning with the day on which notice is given,
 the managers of the hospital may transfer the patient as proposed only if subsection (10) below applies.
- (10) This subsection applies where—
 - (a) the conditions mentioned in subsection (3) above continue to be satisfied; and
 - (b) the persons mentioned in subsection (8) above are given at least 7 days' notice of the proposed transfer.
- (11) Subsections (5) to (7) above shall apply to the giving of notice under subsection (10) (b) above as they apply to the giving of notice under subsection (4) above.
- (12) Where the patient is transferred under subsection (2) above, the managers of the hospital from which the patient is transferred shall, before the expiry of the period of 7 days beginning with the transfer, give notice to the Commission of the matters mentioned in subsection (13) below.
- (13) Those matters are—
 - (a) the date on which the patient was transferred;
 - (b) the hospital to which the patient was transferred;
 - (c) that—
 - (i) notice was given under subsection (4) above; or
 - (ii) if no such notice was given, the reasons why it was necessary that the patient be transferred urgently; and
 - (d) whether notice was given under subsection (6) or (10)(b) above.
- (14) Where a patient is transferred under subsection (2) above, the compulsion order, hospital direction or, as the case may be, transfer for treatment direction to which the patient is subject shall, for the purposes of this Act (other than sections 219 and 220), be taken to specify the hospital to which the patient is transferred.

Commencement Information

- II** S. 218 in force at 5.10.2005 by [S.S.I. 2005/161](#), [art. 3](#) (as substituted (1.7.2005) by [S.S.I. 2005/375](#), art. 2 and as amended (22.9.2005) by [S.S.I. 2005/459](#), art. 2)

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 64(8A)(8B) inserted by [2015 asp 9 s. 1\(2\)](#)
- s. 65(7) inserted by [2015 asp 9 s. 1\(3\)](#)