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SCOTTISH STATUTORY INSTRUMENTS

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**2005 No. 467**

The Mental Health (Cross border transfer:  
patients subject to detention requirement or  
otherwise in hospital) (Scotland) Regulations 2005

PART III

RECEPTION OF PERSONS IN SCOTLAND

**Reception in Scotland: general**

**30.**—(1) A patient, who is subject to relevant measures in a relevant territory and, who is received in Scotland, shall be treated once so received—

- (a) as if their detention in hospital had been authorised by virtue of a measure under the 2003 Act<sup>(1)</sup> or the 1995 Act<sup>(2)</sup> which most closely corresponds or is most similar to the measure to which the patient was subject immediately before the transfer took place; and
- (b) where the patient was subject to a measure under any enactment in force in that territory restricting their discharge immediately before the transfer took place, as if the patient was subject to the measure under the 2003 Act or the 1995 Act which most closely corresponds to the measure under the enactment restricting their discharge to which the patient was subject.

(2) Without prejudice to paragraph (1), where the relevant authority transfers responsibility for a patient who falls within paragraph (3) to the Scottish Ministers the patient shall be treated—

- (a) as if the patient was subject to a restriction order; and
- (b) as if on the date of the transfer the patient had been conditionally discharged under section 193(7) of the 2003 Act and not recalled under section 202 of that Act.

(3) A patient falls within this paragraph if, immediately before their transfer from the relevant territory, the patient—

- (a) was subject to measure in a relevant territory corresponding or similar to a restriction order; and
- (b) had been conditionally discharged under the most closely corresponding enactment in force in the relevant territory.

(4) Where a patient to whom paragraph (1) applies was, immediately before their transfer from the relevant territory, liable to be detained by virtue of a measure corresponding or similar to a transfer for treatment direction or a hospital direction made while serving, or in connection with, a sentence of imprisonment imposed by a court in the relevant territory the patient shall be treated as if the sentence had been imposed by a court in Scotland.

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(1) 2003 asp 13.

(2) 1995 c. 46.

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

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(5) Subject to paragraph (6), the measure to which a patient becomes treated as if they are subject by virtue of paragraph (1) shall have effect, including for the purpose of calculation of time limits imposed by the 2003 Act or the 1995 Act, as if that measure had been made or given on the date on which the relevant measure to which the patient was subject, immediately before their transfer from the relevant territory, first had effect.

(6) Paragraph (5) does not apply to time limits which are specifically provided for or otherwise amended by these regulations.

(7) In this section “the relevant authority” means the person or authority exercising corresponding functions in the relevant territory to those exercised by the Scottish Ministers under section 202 of the 2003 Act.