

Draft Regulations laid before the Scottish Parliament under section 326(4) of the Mental Health (Care and Treatment) (Scotland) Act 2003, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2017 No.

MENTAL HEALTH

**The Mental Health (Cross-border Visits)
(Scotland) Amendment Regulations 2017**

Made - - - - 2017
Coming into force - - 30th June 2017

The Scottish Ministers make the following Regulations under section 309A of the Mental Health (Care and Treatment) (Scotland) Act 2003(1) and all other powers enabling them to do so.

In accordance with section 326(4) of that Act(2), a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation

1. These Regulations may be cited as the Mental Health (Cross-border Visits) (Scotland) Amendment Regulations 2017.

Commencement

2. These Regulations come into force on 30th June 2017.

Amendment of S.S.I. 2008/181

3.—(1) Regulation 1(2) of the Mental Health (Cross-border Visits) (Scotland) Regulations 2008(3) (interpretation) is amended as follows.

(2) In the definition of “cross-border patient”, for “England, Wales, Northern Ireland, the Isle of Man or any of the Channel Islands” substitute “a relevant territory”.

(3) In the definition of “relevant territory”—

(a) omit the “or” immediately preceding paragraph (d); and

(1) 2003 asp 13. Section 309A is inserted by the Adult Support and Protection (Scotland) Act 2007 (asp 10), section 72; it is amended by the Mental Health (Scotland) Act 2015 (asp 9), section 32.
(2) Section 326(4) is relevantly amended by the Adult Support and Protection (Scotland) Act 2007, section 72; and is modified by the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10), schedule 3, paragraph 5.
(3) S.S.I. 2008/181.

(b) at the end of that paragraph insert—

“; or

(e) a member State of the European Union (apart from the United Kingdom)”.

St Andrew’s House,
Edinburgh
Date

Name
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Regulations make provision in connection with escorted mental health patients who visit Scotland while on leave of absence under the law of another European Union member State.

Specifically, regulation 3 amends the Mental Health (Cross-border Visits) (Scotland) Regulations 2008 so that they apply to such patients. In their unamended form, the 2008 Regulations applied only to patients visiting Scotland while on leave of absence under the law of England and Wales, Northern Ireland, the Isle of Man or any of the Channel Islands.

The 2008 Regulations apply (with modifications) sections 301 to 303 of the Mental Health (Care and Treatment) (Scotland) Act 2003 to visiting patients. Those sections set out what can happen should a patient on leave of absence fail to comply with any conditions or requirements imposed.