

POLICY NOTE

THE MENTAL HEALTH (CROSS-BORDER VISITS) (SCOTLAND) AMENDMENT REGULATIONS 2017

SSI 2017/xxx

The above instrument was made in exercise of the powers conferred by section 309A of the Mental Health (Care and Treatment) (Scotland) Act 2003. The instrument is subject to affirmative procedure.

Policy Objectives

The Mental Health (Scotland) Act 2015 amends the 2003 Act to allow regulations made under section 309A to make equivalent provisions for EU countries as is currently allowed for other UK jurisdictions. The current regulations make provision in connection with escorted mental health patients who visit 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 and sets out the powers of escorts during such visits. The instrument amends these regulations to extend the provision to other EU jurisdictions.

Consultation

The consultation focused on proposed changes to the Mental Health (Cross-border transfer: patients subject to detention requirement or otherwise in hospital) (Scotland) Regulations 2005, and included a question on extending these regulations, alongside two cross-border transfer regulations to include patients from other EU jurisdictions. The proposals put forward in the consultation were widely supported and no specific comments about these regulations were made.

A full list of those consulted and who agreed to the release of this information is attached to the consultation report published on the Scottish Government website on 12 January 2017 with ISBN 978-1-78652-727-1.

Impact Assessments

This SSI is part of a package of SSI to come into force on 30 June 2017. Impact assessments including a Privacy Impact Assessment (PIA), Equality Impact Assessment (EQIA); Child Rights and Wellbeing Impact Assessment (CRWIA) are to be concluded on the policy and will be provided with the second tranche of SSIs at the end of May 2017. Mental disorder is included in the definition of the protected characteristic of disability under the Equality Act 2010. Therefore it is likely that any effects that the SSI provisions have on service users will particularly impact the protected characteristic of disability.

Financial Effects

A Business and Regulatory Impact Assessment (BRIA) is to be concluded and will be provided with the second tranche of SSIs at the end of May 2017. The impact of this policy on business is expected to be small.

Scottish Government
Population Health Directorate
11th May 2017