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SCOTTISH STATUTORY INSTRUMENTS

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**2005 No. 464**

**The Mental Health (Safety and Security) (Scotland) Regulations 2005**

**Conditions for searching specified persons**

**6.—**(1) The search of specified persons and of anything they have with them as mentioned in regulation 4(a) is subject to the conditions in paragraph (2).

(2) The conditions are that—

- (a) the specified person's consent shall be sought for each search;
- (b) where the specified person refuses to consent to being searched, the search may proceed if, after the re-assessment mentioned in regulation 5(b) that person's responsible medical officer decides that the search should proceed;
- (c) the search of a specified person shall consist of a rub-down search or a removal of clothing search; and
- (d) the search of a specified person shall be carried out with due regard for the specified person's dignity and privacy and, unless there are exceptional circumstances, shall be carried out by a member of staff authorised by the hospital managers to conduct such searches who is of the same sex as the person and witnessed by another member of staff who, where reasonably practicable, is of the same sex as the person.

(3) In this regulation—

“removal of clothing search” means the visual examination of the external parts of the body following the removal of the specified person's clothing, or the visual examination of that person's open mouth without the use of force or any instrument and shall not be construed as authorising the physical examination of the person's orifices; and

“rub down search” means a personal search of a specified person and the contents of the person's pockets without the removal of the person's clothing except for a coat or jacket and can include the use of metal detectors and other non invasive detection equipment.