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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 II

REMOVAL OF PATIENTS FROM SCOTLAND

**Absconding**

22.—(1) Paragraph (4) applies if—

- (a) a warrant for removal of the patient has been issued under regulation 10; and
- (b) the patient falls within paragraph (2) or (3).

(2) A patient falls within this paragraph if while being conveyed to or travelling to the country or territory to which the patient is being removed, the patient absconds.

(3) A patient falls within this paragraph if the patient—

- (a) is being conveyed to or is travelling in, the country or territory to which the patient is being removed, but has not yet reached their destination;
- (b) absconds before the measure which authorised the patient's detention in hospital in Scotland ceases to have effect by virtue of regulation 23; and
- (c) returns to Scotland.

(4) Sections 301 to 303 and regulations under section 310 of the 2003 Act will apply to the patient subject to the modifications in paragraphs (5) and (6).

(5) In section 301—

- (a) in subsection (1)(a)(ii) omit the word “or”;
- (b) in subsection (1)(b) after the word “absconds” insert—

“; or

- (c) while being removed from Scotland by virtue of regulations made under section 290 of this Act, absconds.”.

(6) In section 302, for subsection (2) substitute—

“(2) A patient to whom this subsection applies and who absconds while being removed from Scotland to any place by virtue of regulations made under section 290 of this Act is liable to be taken in to custody and dealt with in accordance with section 303 of this Act.”.