



Mental Health (Care and Treatment) (Scotland) Act 2003

2003 asp 13

PART 20

ABSCONDING

Patients from other jurisdictions

309 Patients from other jurisdictions

- (1) Regulations may make provision applying sections 301 to 303 of this Act to
- [^{F1}(a)] persons in Scotland who are subject to [^{F2}corresponding requirements or] corresponding measures in England, Wales, Northern Ireland, the Isle of Man or the Channel Islands.
 - [^{F3}(b)] persons in Scotland who are subject to corresponding requirements or corresponding measures in a member State of the European Union (apart from the United Kingdom).]
- (2) [^{F4}Regulations under subsection (1) above] may make such modifications of those sections in that application as the Scottish Ministers think fit.
- [^{F5}(2ZA) Regulations may make provision applying specific provisions in Part 16 of this Act to persons to whom sections 301 to 303 of this Act apply by virtue of subsection (1) above.
- (2ZB) Regulations under subsection (2ZA) above may make such modifications of that Part in that application as the Scottish Ministers think fit.
- (2ZC) But regulations under subsection (2ZA) above may not—
- (a) apply any of that Part to persons who are subject to requirements or measures corresponding only to detention in hospital in accordance with an emergency detention certificate, or
 - (b) authorise medical treatment of the types mentioned in section 234(2) or 237(3) of this Act.]

Changes to legislation: Mental Health (Care and Treatment) (Scotland) Act 2003, Cross Heading: Patients from other jurisdictions is up to date with all changes known to be in force on or before 24 July 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

[^{F6}(2A) The reference in subsection (1) above to persons subject to corresponding requirements shall be construed in accordance with section 289(4) of this Act.]

(3) The reference in subsection (1) above to persons subject to corresponding measures shall be construed in accordance with section 290(8) of this Act.

Textual Amendments

- F1** Words in s. 309(1) renumbered as s. 309(1)(a) (5.5.2017 for specified purposes, 30.6.2017 in so far as not already in force) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 33(3)(a)(i)**, 61(2); S.S.I. 2017/126, art. 2, sch.; S.S.I. 2017/197, art. 2, sch.
- F2** Words in s. 309(1) inserted (30.6.2007) by [Adult Support and Protection \(Scotland\) Act 2007 \(asp 10\)](#), **ss. 71(2)(a)**, 79(3); S.S.I. 2007/334, art. 2(a), sch. 1
- F3** S. 309(1)(b) inserted (5.5.2017 for specified purposes, 30.6.2017 in so far as not already in force) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 33(3)(a)(ii)**, 61(2); S.S.I. 2017/126, art. 2, sch.; S.S.I. 2017/197, art. 2, sch.
- F4** Words in s. 309(2) substituted (5.5.2017 for specified purposes, 30.6.2017 in so far as not already in force) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 33(3)(b)**, 61(2); S.S.I. 2017/126, art. 2, sch.; S.S.I. 2017/197, art. 2, sch.
- F5** S. 309(2ZA)-(2ZC) inserted (5.5.2017 for specified purposes, 30.6.2017 in so far as not already in force) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 33(3)(c)**, 61(2); S.S.I. 2017/126, art. 2, sch.; S.S.I. 2017/197, art. 2, sch.
- F6** S. 309(2A) inserted (30.6.2007) by [Adult Support and Protection \(Scotland\) Act 2007 \(asp 10\)](#), **ss. 71(2)(b)**, 79(3); S.S.I. 2007/334, art. 2(a), sch. 1

Commencement Information

- I1** S. 309 in force at 21.3.2005 for specified purposes by [S.S.I. 2005/161](#), art. 2, **Sch. 1**
- I2** S. 309 in force at 5.10.2005 in so far as not already in force by [S.S.I. 2005/161](#), **art. 3** (as substituted (1.7.2005) by [S.S.I. 2005/375](#), art. 2 and as amended (22.9.2005) by [S.S.I. 2005/459](#), art. 2)

[^{F7}309A Cross-border visits: leave of absence

(1) Regulations may make provision for and in connection with the keeping in charge of

[^{F8}(a) a person who is subject to a corresponding suspension of detention in England, Wales, Northern Ireland, the Isle of Man or the Channel Islands.

[^{F9}(b) a person who is subject to a corresponding suspension of detention in a member State of the European Union (apart from the United Kingdom).]

(2) Those regulations may—

- (a) make provision applying sections 301 to 303 of this Act to such persons;
- (b) make such modifications of those sections in that application as the Scottish Ministers think fit.

(3) A person is subject to a “corresponding suspension of detention” in a territory if under the law of that territory—

- (a) but for the leave of absence mentioned in paragraph (b), the person would be subject to measures corresponding or similar to detention in hospital authorised by virtue of this Act or the 1995 Act; and
- (b) the person has been granted a leave of absence subject to a condition corresponding or similar to the condition set out in section 127(6)(a) of this Act.]

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Textual Amendments

- F7** S. 309A inserted (30.6.2007) by [Adult Support and Protection \(Scotland\) Act 2007 \(asp 10\)](#), **ss. 72(1), 79(3)**; [S.S.I. 2007/334, art. 2\(a\), sch. 1](#)
- F8** Words in s. 309A(1) renumbered as s. 309A(1)(a) (5.5.2017 for specified purposes, 30.6.2017 in so far as not already in force) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 32(4)(a), 61(2)**; [S.S.I. 2017/126, art. 2, sch.](#); [S.S.I. 2017/197, art. 2, sch.](#)
- F9** S. 309A(1)(b) inserted (5.5.2017 for specified purposes, 30.6.2017 in so far as not already in force) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 32(4)(b), 61(2)**; [S.S.I. 2017/126, art. 2, sch.](#); [S.S.I. 2017/197, art. 2, sch.](#)

Changes to legislation:

Mental Health (Care and Treatment) (Scotland) Act 2003, Cross Heading: Patients from other jurisdictions is up to date with all changes known to be in force on or before 24 July 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 64(8A)(8B) inserted by [2015 asp 9 s. 1\(2\)](#)
- s. 65(7) inserted by [2015 asp 9 s. 1\(3\)](#)