



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

2003 asp 13

PART 12

PARTS 10 AND 11: TRANSFERS

219 Appeal to Tribunal against transfer under section 218 to hospital other than state hospital

- (1) This section applies where—
 - (a) a patient—
 - (i) receives notice under subsection (4), (6)(a) or (10)(b) of section 218 of this Act that it is proposed to transfer the patient; or
 - (ii) is transferred under subsection (2) of that section, to any hospital other than a state hospital; and
 - (b) the hospital to which the patient is, or is proposed to be, transferred is not specified in the compulsion order, hospital direction or, as the case may be, transfer for treatment direction to which the patient is subject.
- (2) The patient, or the patient's named person, may, during the period mentioned in subsection (3) below, appeal to the Tribunal against the proposed transfer or, as the case may be, the transfer.
- (3) That period is—
 - (a) in the case of the patient—
 - (i) where notice is given to the patient before the proposed transfer, the period beginning with the day on which notice is given and ending 28 days after the transfer;
 - (ii) where notice is given to the patient on or after the transfer, the period beginning with the day on which the patient is transferred and ending 28 days after the day on which notice is given; or
 - (iii) where notice is not given to the patient, the period of 28 days beginning with the day on which the patient is transferred;
 - (b) in the case of the patient's named person—

Changes to legislation: *Mental Health (Care and Treatment) (Scotland) Act 2003, Section 219 is up to date with all changes known to be in force on or before 26 May 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*

- (i) where notice is given to the patient's named person before the proposed transfer, the period beginning with the day on which notice is given and ending 28 days after the transfer; or
 - (ii) where notice is given to the patient's named person on or after the transfer, the period of 28 days beginning with the day on which notice is given.
- (4) If, when an appeal under subsection (2) above against a proposed transfer is made to the Tribunal, the proposed transfer has not taken place—
- (a) the managers of the hospital shall not transfer the patient as proposed; but
 - (b) the Tribunal may, if satisfied that, pending the determination of the appeal, the patient should be transferred as proposed, make an order that the patient be so transferred.
- (5) On an appeal under subsection (2) above, the Tribunal may make an order that the proposed transfer not take place or, as the case may be, that the patient be returned to the hospital from which the patient was transferred.

Commencement Information

- II** S. 219 in force at 5.10.2005 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)

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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\(3\)](#)