# Mental Health (Scotland) Act 2015

**2015 asp 9**

## PART 2

CRIMINAL CASES

*Variation of certain orders*

### 46 Transfer of patient to suitable hospital

(1) The Criminal Procedure (Scotland) Act 1995 is amended as follows.

(2) The italic heading immediately preceding section 61 becomes " *Miscellaneous provision* ".

(3) After section 61 there is inserted—

"**61A Transfer of person to suitable hospital**

(1) Subsection (2) below applies in relation to a person who is subject to—
   (a) an assessment order,
   (b) a treatment order,
   (c) an interim compulsion order, or
   (d) a temporary compulsion order (see section 54(1)(c) of this Act).

(2) The person's responsible medical officer may transfer the person from the specified hospital to another hospital.

(3) The responsible medical officer may transfer the person only if satisfied that, for the purpose for which the order in question is made—
   (a) the specified hospital is not suitable, and
   (b) the other hospital is suitable.

(4) In considering the suitability of each hospital, the responsible medical officer is to have particular regard to the specific requirements and needs in the person's case.

(5) As far before the transfer as practicable, the responsible medical officer must—

(a) inform the person of the reason for the transfer,

(b) notify the managers of the specified hospital, and

(c) obtain the consent of—

(i) the managers of the other hospital, and

(ii) the Scottish Ministers.

(6) As soon after the transfer as practicable, the responsible medical officer must notify—

(a) any solicitor known by the officer to be acting for the person, and

(b) the court which made the order in question.

(7) A person may be transferred under subsection (2) above only once with respect to the order in question.

(8) Where a person is transferred under subsection (2) above, the order in question has effect as if the other hospital were the specified hospital.

(9) In this section—

"managers" has the meaning given by section 329(1) of the Mental Health (Treatment and Care) Scotland) Act 2003,

"responsible medical officer" has the meaning given by section 329(4) of that Act,

"specified hospital" means hospital to which the person is admitted by virtue of the order in question.".

**Commencement Information**

**I1** S. 46 in force at 30.6.2017 by S.S.I. 2017/197, art. 2, **sch.**

**Changes to legislation:**
There are currently no known outstanding effects for the Mental Health (Scotland) Act 2015, Section 46.