
SCOTTISH STATUTORY INSTRUMENTS

2008 No. 181

The Mental Health (Cross-border Visits) (Scotland) Regulations 2008

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Mental Health (Cross-border Visits) (Scotland) Regulations 2008 and come into force on the day after the day on which they are made.

(2) In these Regulations—

“the Act” means the Mental Health (Care and Treatment) (Scotland) Act 2003;

“cross-border patient” means a person who is subject to a corresponding suspension of detention in England, Wales, Northern Ireland, the Isle of Man or any of the Channel Islands; a person is subject to a “corresponding suspension of detention” in a relevant 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 the Act or the Criminal Procedure (Scotland) Act 1995(1); 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 the Act; and

“relevant territory” means—

- (a) England and Wales;
- (b) Northern Ireland;
- (c) the Isle of Man; or
- (d) any of the Channel Islands.

Powers in relation to cross-border patients

2.—(1) Where a cross-border patient is in Scotland—

- (a) that patient may be kept in the charge of a person authorised for that purpose in relation to the leave of absence referred to in paragraph (b) of the definition of “corresponding suspension of detention”; and
- (b) sections 302 and 303 of the Act shall apply to that patient as they apply to a patient in respect of whom—
 - (i) a certificate under section 127(3) of the Act has effect; and
 - (ii) a condition under subsection (6) of that section requires that the patient be kept in the charge of an authorised person.

(2) In the application of sections 302 and 303 of the Act in such a case—

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (a) references to an authorised person, and to the person who is authorised under section 127(6) of the Act, shall be construed as references to the person authorised as mentioned in paragraph (1)(a);
- (b) references to any place, or any other place, considered appropriate by the patient's responsible medical officer shall be construed as references to any place considered appropriate by—
 - (i) the person who granted the leave of absence referred to in paragraph (b) of the definition of “corresponding suspension of detention” or any person who could grant such leave of absence in relation to the cross-border patient; or
 - (ii) any medical practitioner;
- (c) the period specified in section 303(4) shall be any period in which the cross-border patient is in Scotland; and
- (d) section 303(7) shall not apply.

St Andrew's House,
Edinburgh
6th May 2008

S ROBISON
Authorised to sign by the Scottish Ministers