
SCOTTISH STATUTORY INSTRUMENTS

2008 No. 333

**The Mental Health (Absconding Patients from
Other Jurisdictions) (Scotland) Regulations 2008**

Application of section 301 of the 2003 Act

3. In the application of section 301 of the 2003 Act to a person mentioned in regulation 2—
- (a) references to a patient shall be construed as references to a person as mentioned in regulation 2;
 - (b) references in subsection (1) to a compulsory treatment order, and to the order, shall be construed as references to a measure in a relevant territory which is corresponding or similar to—
 - (i) a compulsory treatment order that authorises the detention of a patient in hospital;
 - (ii) an assessment order;
 - (iii) a treatment order;
 - (iv) a temporary compulsion order made under section 54(1)(c) of the 1995 Act;
 - (v) an interim compulsion order;
 - (vi) a compulsion order that authorises the detention of a patient in hospital;
 - (vii) a compulsion order and a restriction order;
 - (viii) a hospital direction; or
 - (ix) a transfer for treatment direction;
 - (c) references in subsections (1) and (2) to a hospital shall be construed as including references to a hospital as defined under the law of a relevant territory;
 - (d) the reference in subsection (1)(b) to a patient being transferred under section 124 of the 2003 Act shall be construed as a reference to a person being transferred under the provision in force in a relevant territory which is corresponding or similar to—
 - (i) section 124 of the 2003 Act (transfer from one hospital to another where a patient is subject to a compulsory treatment order);
 - (ii) section 124 as applied by section 178 of the 2003 Act (transfer from one hospital to another where a patient is subject to a relevant compulsion order); or
 - (iii) section 218 of the 2003 Act (transfer from one hospital to another where a patient is subject to a compulsion order and a restriction order, a hospital direction or a transfer for treatment direction);
 - (e) in subsection (2), the reference to a condition requiring that a patient be kept in the charge of an authorised person, and the reference to a patient who absconds from the charge of that authorised person, shall not apply;
 - (f) the references in subsection (2) to a certificate under section 127(1) of the 2003 Act and to a condition under subsection (6) of that section shall be construed as references to a measure in a relevant territory which is corresponding or similar to—

- (i) a certificate under section 127(1) of the 2003 Act and a condition under subsection (6) of that section (suspension of measure authorising detention where a patient is subject to a compulsory treatment order);
 - (ii) a certificate under section 127(1) and a condition under subsection (6) of that section, as applied by section 179 of the 2003 Act (suspension of measure authorising detention where a patient is subject to a relevant compulsion order);
 - (iii) a certificate under section 221(2) of the 2003 Act and a condition under subsection (6) of that section (suspension of measure authorising detention where a patient is subject to an assessment order); or
 - (iv) a certificate under section 224(2) of the 2003 Act and a condition under subsection (7) of that section (suspension of measure authorising detention where a patient is subject to a treatment order, an interim compulsion order, a compulsion order and a restriction order, a hospital direction or a transfer for treatment direction);
- (g) subject to paragraphs (e) and (f), references in subsections (2), (3) and (4) to a condition or requirement, whether or not by reference to any provision of the 2003 Act, shall be construed as references to the measure in a relevant territory which most closely corresponds to such a condition or requirement;
- (h) the reference in subsection (3) to a compulsory treatment order imposing a requirement that a patient reside at a specified place shall be construed as a reference to a measure in a relevant territory which is corresponding or similar to—
- (i) a compulsory treatment order which imposes a requirement that a patient reside at a specified place; or
 - (ii) a compulsion order which imposes a requirement that a patient reside at a specified place; and
- (i) the reference in subsection (4) to a compulsory treatment order shall be construed as a reference to a measure in a relevant territory which is corresponding or similar to a compulsory treatment order or a compulsion order;
- (j) the reference in subsection (4) to the mental health officer shall be construed as a reference to the person in a relevant territory who is authorised to approve any proposed change of address.