
STATUTORY INSTRUMENTS

1996 No. 742 (S.75)

MENTAL HEALTH

The Mental Health (Patients in the Community) (Transfer from England and Wales to Scotland) Regulations 1996

<i>Made</i>	- - - -	<i>7th March 1996</i>
<i>Laid before Parliament</i>		<i>11th March 1996</i>
<i>Coming into force</i>	- -	<i>1st April 1996</i>

The Secretary of State, in exercise of the powers conferred on him by section 35K(2) and section 58 of the Mental Health (Scotland) Act 1984(1) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Mental Health (Patients in the Community) (Transfer from England and Wales to Scotland) Regulations 1996 and shall come into force on 1st April 1996.

Interpretation

2. In these Regulations, unless the context otherwise requires—
“the Act” means the Mental Health (Scotland) Act 1984.

Modification of the Mental Health (Scotland) Act 1984

3. For the purposes of applying to a community care application made or to be made by virtue of section 35K of the Act, sections 35A to 35C of the Act shall have effect subject to the modifications prescribed in the Schedule hereto.

(1) 1984 c. 36; section 35K was inserted by the Mental Health (Patients in the Community) Act 1995 (c. 52), (“the 1995 Act”), section 4.

Status: This is the original version (as it was originally made).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

St Andrew's House,
Edinburgh
7th March 1996

James Douglas-Hamilton
Minister of State, Scottish Office

SCHEDULE

MODIFICATION OF THE PROVISIONS OF SECTIONS 35A TO 35C OF THE MENTAL HEALTH (SCOTLAND) ACT 1984

Section 35A (Community care orders)

1.—(1) For section 35A(1)(2) there shall be substituted—

(1) As respects a patient who is subject to after-care under supervision under the Mental Health Act 1983(3) and who intends to leave England and Wales in order to reside in Scotland, the applicant may in accordance with section 35B of this Act(4) make an application (in this Act referred to as a “community care application”) to the sheriff for an order (in this Act referred to as a “community care order”) providing that the patient shall, instead of being subject to after-care under supervision in England and Wales, be subject to the conditions specified in the order, being conditions imposed with a view to ensuring that he receives—

- (a) medical treatment; and
- (b) after-care services provided for him under section 8 of this Act(5).

(1A) In the immediately foregoing subsection and in section 35B of this Act “applicant” means the medical practitioner who is to be the patient’s special medical officer.”.

(2) In section 35A—

- (a) subsections (6) and (7) shall be deleted;
- (b) for subsection (8) there shall be substituted—

“(8) A community care order made in respect of such a patient as is referred to in subsection (1) above shall come into force on the date on which the patient takes up residence in Scotland.”.

Section 35B (Community care applications)

2.—(1) In section 35B—

- (a) subsection (1) shall be deleted;
- (b) for subsection (2) there shall be substituted—

“(2) Before making a community care application the applicant shall—

- (a) consult the persons specified in subsection (3) below, and
- (b) consider the matters specified in subsection (5) below.”;

(c) for subsection (3)(b) there shall be substituted—

“(b) the persons who have been principally concerned with the patient’s medical treatment while he was subject to after-care under supervision in England and Wales;”;

(d) for subsection (3)(d) there shall be substituted—

“(d) the person who was the patient’s supervisor while he was subject to after-care under supervision and the person who is to be the patient’s after-care officer;”.

(2) Section 35A was inserted by the 1995 Act, section 4.

(3) 1983 c. 20.

(4) Section 35B was inserted by the 1995 Act, section 4.

(5) Section 8 was amended by the 1995 Act, Schedule 2, paragraph 3.

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

(2) In sections 35B(3)(e) and (f), 35B(4), 35B(6)(a) and (d), and 35B(10) for “the responsible medical officer” there shall be substituted “the applicant”.

Section 35C (Duration and renewal of community care order)

3. In section 35C(4) for “the responsible medical officer” there shall be substituted “the special medical officer”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe modifications to sections 35A to 35C of the Mental Health (Scotland) Act 1984 to enable patients who are subject to after-care under supervision under the Mental Health Act 1983 and who wish to move to Scotland to become subject to community care orders there.

Community care orders and after-care under supervision were introduced into the Mental Health (Scotland) Act 1984 and the Mental Health Act 1983 respectively by the Mental Health (Patients in the Community) Act 1995.