

# Primary and Community Care Directorate

Mental Health Division



The Scottish  
Government  
CEL 29 (2008)

July 2008

Dear Colleague

## THE MENTAL HEALTH (CROSS-BORDER VISITS) (SCOTLAND) REGULATIONS 2008 – SSI NUMBER 2008/181

### Background

New regulations made under Section 309a of the Mental Health (Care and Treatment) (Scotland) Act 2003 (the Act) contain provisions relating to cross-border visits by detained patients from other parts of the UK to Scotland on escorted leave of absence. The new regulations provide powers enabling short term cross border visits to Scotland by such patients and include powers to allow their escorts, to restrain and retake such patients, while on such visits in Scotland.

The Regulations contained in the SSI came into force on 8 May 2008 and can be viewed on <http://www.scotland.gov.uk/Topics/Health/health/mental-health/mhlaw/part18regs>

The Mental Health Act 2007 made similar provisions which now enables patients in Scotland to make short term escorted visits to England and Wales which came into effect in October 2007.

Patients subject to CTOs and COs in Scotland may make such escorted visits to other parts of the UK with the approval of their RMO.

For patients subject to CORO and similar orders approval for suspension of detention must be obtained first in the usual way from the Scottish Ministers (who will liaise with Ministry of Justice officials).

Annex A explains the background to the introduction of the regulations.

You are asked to bring this letter and the Annex to the attention of relevant staff.

**Yours sincerely**

GEOFF HUGGINS

### Addressees

#### For action

General Managers, Health Boards  
General Manager, State Hospitals  
Board for Scotland  
Medical Directors [to cascade to  
RMOs)  
Directors of Social Work  
Chief Constables  
Association of Chief Police Officers  
Chief Officers, CJAs  
Liaison Officers, CJAs  
Criminal Justice Managers

#### For information

Chief Executives, NHS Boards  
Secretary, Mental Welfare  
Commission  
NHS Health Scotland  
Chief Executive, Mental Health  
Tribunal for Scotland  
ADSW  
BASW  
RCPsych(Scotland)

#### **Enquiries to:**

John Williamson  
3.ER  
St Andrew's House  
Regent Road  
Edinburgh EH1 3DG

Tel: 0131-244 2283  
Fax: 0131-244 5076  
Point of contact:  
[john.williamson@scotland.gsi.gov.uk](mailto:john.williamson@scotland.gsi.gov.uk)  
<http://www.scotland.gov.uk>

**ANNEX A**



## **The Mental Health (Cross-border Visits) (Scotland) Regulations 2008 (SSI 2008 No. 181)**

The Regulations make provision in connection with escorted mental health patients who visit Scotland while on leave of absence under the law of England, Wales, Northern Ireland, the Isle of Man or any of the Channel Islands. These regulations provide powers for escorts who are authorised under the law of those other territories to convey such patients while in Scotland. In addition, the regulations make provision for such escorts to have the power to restrain and retake such patients in the event that they abscond. The latter powers are conferred by way of applying provisions in the 2003 Act (sections 302 and 303), with modification, to such persons.

The effect of the instrument will be to allow patients who are subject to mental health measures in the territories referred to above to be granted short term leave of absence for the purpose of, for example, visiting a sick relative in Scotland, attending a wedding or funeral in Scotland, before returning to their “home territory”.

**Primary and Community Care Directorate**  
Mental Health Division