

# **PUBLIC HEALTH ETC. (SCOTLAND) ACT 2008**

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## **EXPLANATORY NOTES**

### **THE ACT – OVERVIEW**

#### **Part 4**

#### **Public Health Functions of Health Boards**

#### **Duty to give explanation**

##### ***Section 31 Duty of health boards to give explanation of need for action***

59. This section provides that if a health board is proposing to take any action mentioned in section 32(a) to (c) or if a health board competent person is proposing to take any action mentioned in section 32(d) or (e) (known as a “relevant action”) in respect of a person, the health board must explain such action to that person. The explanation must convey that there is a significant risk to public health, the nature of that risk and why the board finds it necessary to take the proposed action. In the event that an explanation cannot be given before the relevant action is taken, the health board must, as soon as reasonably practicable after taking action and in so far as it is reasonably practicable to do so, give the explanation. If the person is incapable of understanding the explanation, for whatever reason, explanations should be given to any person having parental responsibilities and parental rights (in respect of those under 16) and in other cases to any guardian, welfare attorney or any other person appointed or having authority to intervene in the affairs of the person.

##### ***Section 32 Relevant actions***

60. This section lists the relevant actions to which section 31 applies. These are applications for orders to do any of the following: require a person to be medically examined; require a person to be quarantined; require a person to be detained in hospital; require a person to be removed to and detained in hospital; require a person to be detained in hospital under an exceptional detention order. Relevant actions also include the making by a health board competent person of an order excluding a person from specified places (an exclusion order) or from carrying on specified activities (a restriction order).