

PUBLIC HEALTH ETC. (SCOTLAND) ACT 2008

EXPLANATORY NOTES

THE ACT – OVERVIEW

Part 4

Public Health Functions of Health Boards

Medical examinations

Section 34 Order for medical examination

63. This section sets out the circumstances in which a sheriff may grant an order authorising a health care professional to medically examine the person to whom the application under section 33 relates. Subsection (1) requires the sheriff to be satisfied with the matters in subsection (2). Those include the fact that an explanation under section 31 was given, or, where no such explanation was given, it was not reasonably practicable to do so. Subsection (4) states that a medical examination authorised under this section must be carried out within 7 days of the order being made. Subsection (5)(a) states that if an appeal is made (under section 60(1)) before the medical examination is carried out, the order is suspended, and no account is taken of the period during which the order is suspended in calculating the 7 days within which the medical examination must take place. The order must specify the person to whom it applies and the class or classes of health care professional who will carry out the examination. “Health care professional” is defined in section 33(4). The sheriff may also make provision in the order about such other matters as the sheriff considers appropriate (subsection (3)). The order must be notified to the person to whom it applies and be notified to any person to whom an explanation was given under section 31 and any other person the sheriff considers appropriate.