

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

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## **EXPLANATORY NOTES**

### **THE ACT – OVERVIEW**

#### **Part 4**

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

#### **Removal to and detention in hospital**

#### ***Section 42 Order for removal to and detention in hospital***

82. This section sets out the circumstances in which a sheriff may grant an order for removal and detention in hospital and what that order must contain. The sheriff must be satisfied that the criteria for a removal and detention order have been met. The order authorises a constable, an officer of the health board or local authority or any other person the sheriff considers appropriate to remove the person to the hospital specified in the order; to detain the person in hospital for a period not exceeding three weeks; and the taking of steps (if any), set out in section 46(2), as is considered appropriate.
83. Subsection (4) sets out what an order under this section must specify: the person to whom it applies; the hospital to which the person is to be taken (and in which the person is to be detained); the period for which the person is to be detained, up to a maximum of three weeks; and the steps (if any) to be undertaken as set out in section 46. The order must be notified to the person to whom it applies, any person to whom an explanation was given under section 31, and any other person whom the sheriff considers appropriate. Subsections (5) and (6) grant a power of entry, including the use of reasonable force, and permit the power to be exercised at any time.
84. Health boards can apply to extend the duration of the order (section 49) and to vary the steps authorised or conditions imposed by the order (section 50).