

PUBLIC HEALTH ETC. (SCOTLAND) ACT 2008

EXPLANATORY NOTES

THE ACT – OVERVIEW

Part 4

Public Health Functions of Health Boards

Compensation

Section 56 Compensation for voluntary compliance with request

107. Subsection (1) provides that a health board must compensate any person who suffers any loss as a result of voluntarily complying with a request to be quarantined, excluded from certain places or prohibited from carrying on certain activities. Such a request must be made by a health board in writing and must specify the action required of the person.
108. Subsection (4) states that compensation is not payable where the loss is attributable to the fault of the person claiming the loss. Subsection (5) provides that any dispute as to a person's entitlement to compensation under this section or the amount of compensation is to be determined by a single arbiter appointed by agreement between the board and the person claiming loss or, if such agreement cannot be reached, by an arbiter appointed by the sheriff.
109. Subsection (6) provides that the Scottish Ministers may, by regulations, make further provision about compensation to which this section applies. Regulations will be made by negative procedure.

Section 57 Compensation for persons subject to certain orders

110. Subsection (1) provides that a health board may compensate any person who is subject to an exclusion order, restriction order or quarantine order and who incurs any loss caused by complying with the order.
111. Subsection (2) states that compensation is not payable where the loss is attributable to the fault of the person claiming the loss. Subsection (3) provides that any dispute as to a person's entitlement to compensation under this section or the amount of compensation is to be determined by a single arbiter appointed by agreement between the board and the person claiming loss or, if such agreement cannot be reached, by an arbiter appointed by the sheriff.
112. Subsection (4) provides that the Scottish Ministers may, by regulations, make further provision about compensation to which this section applies. Regulations will be made by negative procedure.

Section 58 Compensation for carers

113. This section applies where a person (the relevant person) is subject to an exclusion order, a restriction order or a quarantine order. It also applies where the relevant person

*These notes relate to the Public Health etc. (Scotland) Act
2008 (asp 5) which received Royal Assent on 16 July 2008*

is not subject to such an order but the relevant person has agreed to comply with a request mentioned in section 56.

114. The health board must compensate a person (a carer) who incurs a loss as a result of caring for the relevant person being subject to the order or, as the case may be, complying with the request. This is solely in a situation where the carer is required to care for the relevant person, or where the carer normally cares for the relevant person, requires to provide more care.
115. Subsection (3) defines a carer. Where the relevant person is 16 or over, a carer is a person who cares for the relevant person otherwise than by virtue of a contract of employment or other contract with any person or as a volunteer for a voluntary organisation. Where the relevant person is under 16, the carer could also be a parent of the relevant person who has day-to-day care or control of that person. In all cases, the carer must be a person who is 16 or over.
116. Subsection (4) provides that any dispute as to a person's entitlement to compensation under this section or the amount of compensation is to be determined by a single arbiter appointed by agreement between the board and the person claiming loss or, if such agreement cannot be reached, by an arbiter appointed by the sheriff.
117. Subsection (5) provides that the Scottish Ministers may, by regulations, make further provision about compensation to which this section applies.