

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

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## **EXPLANATORY NOTES**

### **THE ACT – OVERVIEW**

#### **Part 6**

#### **Mortuaries Etc.**

#### **Protection of public from risks arising from bodies**

#### ***Section 90 Restriction on release of infected etc. bodies from hospital***

180. This section deals with the circumstances whereby a health board may require the retention of an infected or contaminated body in hospital. It sets out that this must be by direction specifying that the body cannot be removed (except to a mortuary or similar premises for a post-mortem examination) until written authorisation is given to a named person for the purposes of immediate disposal, which may include preparation of the body for disposal. That direction can be made only where a health board competent person certifies that a defined set of circumstances applies. These circumstances, set out in subsection (1), are that a person has died of an infectious disease, had such a disease immediately before dying (but died of another cause) or was contaminated immediately before dying (whether the contaminant caused the death or not). If any of those circumstances applies and the competent person considers that there is also a significant risk to public health and it is necessary to retain the body to avoid or minimise that risk (until the health board is satisfied regarding the arrangements for disposal), a direction may be made.
181. Subsection (4) places a duty on a health board, where it makes such a direction, to explain to persons responsible for handling the body that there is significant risk to public health, the nature of that risk, any precautions the person should take and any other appropriate information. This does not apply where an explanation has already been given under section 91 to anyone who appears to be responsible for the disposal of the body. Subsection (6) states that a person who breaches a direction given under this section without reasonable excuse commits an offence.