



# Public Health etc. (Scotland) Act 2008

## 2008 asp 5

### PART 4

#### PUBLIC HEALTH FUNCTIONS OF HEALTH BOARDS

##### *Variation and extension of orders*

#### **48 Variation of exclusion and restriction orders**

- (1) This section applies where a person is subject to—
  - (a) an exclusion order; or
  - (b) a restriction order.
- (2) A health board competent person of the appropriate health board may, if that person considers it appropriate, modify the order—
  - (a) in the case of an exclusion order, by varying the place, or type of place, from which the person is excluded;
  - (b) in the case of a restriction order, by varying the activity, or type of activity, which the person is prohibited from carrying on; and
  - (c) in either case—
    - (i) where the order imposed no conditions on the person, by imposing such conditions; or
    - (ii) in any other case, by modifying any conditions imposed on the person.
- (3) In subsection (2)(c)(ii), modifying conditions means—
  - (a) adding;
  - (b) varying; or
  - (c) removing,a condition.
- (4) The competent person must give notice of the modification made to—
  - (a) the person to whom the order applies; and
  - (b) any other person to whom the order was notified under section 37(4)(c) or, as the case may be, 38(4)(c).

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*Status: This is the original version (as it was originally enacted).*

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- (5) In subsection (2), “appropriate health board” means the board which designated the health board competent person who made the order.

#### **49 Extension of quarantine and hospital detention orders**

- (1) This section applies where a person is subject to—
- (a) a quarantine order;
  - (b) a short term detention order; or
  - (c) an exceptional detention order.
- (2) A health board may, before the period specified in the order expires, apply to the sheriff for an extension of the order.
- (3) An application under subsection (2) must—
- (a) specify—
    - (i) the order which it is proposed to extend; and
    - (ii) the person to whom that order applies; and
  - (b) include a certificate such as is mentioned in subsection (4).
- (4) That certificate is one—
- (a) stating that a health board competent person is satisfied—
    - (i) as to the matters mentioned in section 40(2)(a) and (b)(i), 42(2)(a) and (b)(i), 43(2)(a) and (b)(i) or, as the case may be, 45(2)(a); and
    - (ii) that it is necessary, to avoid or minimise a risk to public health, for the person to continue to be quarantined or, as the case may be, detained in hospital; and
  - (b) signed by that person.
- (5) The sheriff may, if satisfied as to the matters mentioned in subsection (6)—
- (a) in the case of a quarantine order or a short term detention order, make an order extending the order, subject to subsection (8), for a further period not exceeding 3 weeks beginning with the day on which the period specified in the order would have expired;
  - (b) in the case of an exceptional detention order, make an order extending the order, subject to subsection (9), for a further period beginning with the day on which the period specified in the order would have expired.
- (6) The matters referred to in subsection (5) are—
- (a) the matters mentioned in section 40(2)(a) and (b)(i), 42(2)(a) and (b)(i), 43(2)(a) and (b)(i) or, as the case may be, 45(2)(a); and
  - (b) that it is necessary, to avoid or minimise the risk to public health, for the person to continue to be quarantined or, as the case may be, detained in hospital.
- (7) An order may be extended on more than one occasion.
- (8) A quarantine order or a short term detention order may not be extended if doing so would result in the person to whom it applies being quarantined or, as the case may be, detained in hospital for a continuous period exceeding 12 weeks.
- (9) An exceptional detention order may not be extended if doing so would result in the person to whom it applies being detained in hospital by virtue of that order for a continuous period exceeding 12 months.

- (10) An order under subsection (5)(a) or (b) must—
- (a) specify—
    - (i) the person to whom the order extended by virtue of that subsection applies; and
    - (ii) the period for which that order is extended; and
  - (b) be notified to—
    - (i) the person to whom the order applies;
    - (ii) any person to whom an explanation was given under section 31(5); and
    - (iii) any other person the sheriff considers appropriate.

## **50 Application for variation of quarantine and hospital detention orders**

- (1) This section applies where a person is subject to—
- (a) a quarantine order;
  - (b) a short term detention order; or
  - (c) an exceptional detention order.
- (2) A health board may, if it considers it appropriate, apply to the sheriff for an order under section 51(1) modifying the order.
- (3) An application under subsection (2) must—
- (a) specify—
    - (i) the order which it is proposed to modify;
    - (ii) the person to whom that order applies; and
    - (iii) the modification which it is proposed to make; and
  - (b) include a certificate such as is mentioned in subsection (4).
- (4) That certificate is one—
- (a) stating that a health board competent person is satisfied—
    - (i) as to the matters mentioned in section 40(2)(a) and (b)(i), 42(2)(a) and (b)(i), 43(2)(a) and (b)(i) or, as the case may be, 45(2)(a); and
    - (ii) that it is necessary, to avoid or minimise a risk to public health, for the person to continue to be quarantined or, as the case may be, detained in hospital; and
  - (b) signed by that person.

## **51 Variation of quarantine and hospital detention orders**

- (1) The sheriff may, if satisfied as to the matters mentioned in subsection (2) and that it is appropriate to do so, make an order modifying the order to which the application relates—
- (a) in the case of a quarantine order, by—
    - (i) varying the place in which the person is to be quarantined;
    - (ii) adding, varying or removing conditions;
  - (b) in the case of a short term detention order or an exceptional detention order, by varying the hospital in which the person is detained;
  - (c) in either case, by adding or removing any step such as is mentioned in section 46(2).

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- (2) The matters referred to in subsection (1) are—
- (a) the matters mentioned in section 40(2)(a) and (b)(i), 42(2)(a) and (b)(i), 43(2)(a) and (b)(i) or, as the case may be, 45(2)(a); and
  - (b) that it is necessary, to avoid or minimise a risk to public health, for the person to continue to be quarantined or, as the case may be, detained in hospital.
- (3) An order modified by virtue of subsection (1) has effect as so modified from the time at which the order under that subsection is made.
- (4) Where the modification under subsection (1) varies the place in which a person is to be quarantined or, as the case may be, the hospital in which a person is to be detained, the order as so modified authorises—
- (a) the removal of the person to that place or, as the case may be, hospital, by—
    - (i) a constable;
    - (ii) an officer of the health board;
    - (iii) an officer of a local authority; or
    - (iv) any other person the sheriff considers appropriate; and
  - (b) the quarantining of the person in that place or, as the case may be, the detention of that person in that hospital.
- (5) An order under subsection (1) must—
- (a) specify—
    - (i) the person to whom the order modified by virtue of that subsection applies; and
    - (ii) the modification made by virtue of that subsection; and
  - (b) be notified to—
    - (i) the person to whom the order applies;
    - (ii) any person to whom an explanation was given under section 31(5); and
    - (iii) any other person the sheriff considers appropriate.