



# Public Health etc. (Scotland) Act 2008

## 2008 asp 5

### PART 4

#### PUBLIC HEALTH FUNCTIONS OF HEALTH BOARDS

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

#### **44 Application where long term detention in hospital necessary**

- (1) This section applies where—
  - (a) a person is detained in hospital by virtue of a short term detention order; and
  - (b) the health board which applied for the short term detention order is satisfied that—
    - (i) the conditions mentioned in subsection (2)(a) and (b) continue to apply;
    - (ii) it continues to be necessary, to avoid or minimise a significant risk to public health, for the person to be detained in hospital; and
    - (iii) it is necessary, to avoid or minimise that risk, for the person to be so detained for a period exceeding the maximum period for which a person could be detained by virtue of the short term detention order were that order to be extended under section 49(5)(a) (the “short term maximum period”).
- (2) The conditions referred to in subsection (1)(b)(i) are—
  - (a) that the person to whom the order applies—
    - (i) has an infectious disease; or
    - (ii) is contaminated; and
  - (b) that as a result there is a significant risk to public health.
- (3) The board may apply to any sheriff for the board's area for an order under section 45(1) (an “exceptional detention order”).
- (4) An application under subsection (3) must—
  - (a) specify—
    - (i) the person in relation to whom the order is sought;

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*Changes to legislation: There are currently no known outstanding effects for the Public Health etc. (Scotland) Act 2008, Section 44. (See end of Document for details)*

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- (ii) why the board considers it necessary for the person to continue to be detained in hospital;
  - (iii) why the board considers it necessary for the person to be so detained for a period exceeding the short term maximum period;
  - (iv) the hospital in which it is proposed to detain the person;
  - (v) the period for which it is proposed to detain the person;
  - (vi) the steps (if any) mentioned in section 46(2) which the board considers it necessary to take in relation to the person;
  - (vii) whether an explanation has been given under section 31(3) or (5);
  - (viii) where such an explanation has been given, any response made by or representations made on behalf of the person in relation to whom the order is sought;
  - (ix) where no such explanation has been given, the reason why; and
- (b) include a certificate—
- (i) stating that a health board competent person from another health board's area is satisfied as to the matters mentioned in subsection (1); and
  - (ii) signed by that person.

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**Commencement Information**

**II** S. 44 in force at 1.10.2009 by S.S.I. 2009/319, art. 2(a), Sch. 1

**Changes to legislation:**

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