



# Public Health etc. (Scotland) Act 2008

## 2008 asp 5

### PART 4

#### PUBLIC HEALTH FUNCTIONS OF HEALTH BOARDS

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

#### **45 Exceptional detention order**

- (1) The sheriff may, if satisfied as to the matters mentioned in subsection (2), make an exceptional detention order authorising—
  - (a) the continued detention of a person in hospital; and
  - (b) the taking in relation to the person of such of the steps mentioned in section 46(2) (if any) as the sheriff considers appropriate.
- (2) The matters referred to in subsection (1) are—
  - (a) that the conditions mentioned in section 44(2)(a) and (b) continue to apply;
  - (b) that it continues to be necessary, to avoid or minimise a significant risk to public health, for the person to be detained in hospital;
  - (c) that it is necessary for the person to be so detained for a period exceeding the short term maximum period; and
  - (d) that—
    - (i) before the application under section 44(3) was made, the health board gave an explanation under section 31(3) or (5); or
    - (ii) where no such explanation was given, it was not reasonably practicable to do so.
- (3) An exceptional detention order has effect—
  - (a) from the time at which it is made;
  - (b) for such period, not exceeding 12 months beginning with the day on which the order is made, as the sheriff considers appropriate.
- (4) An order under subsection (1) must—
  - (a) specify—
    - (i) the person to whom the order applies;

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*Changes to legislation: There are currently no known outstanding effects for the Public Health etc. (Scotland) Act 2008, Section 45. (See end of Document for details)*

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- (ii) the hospital in which the person is to be detained;
  - (iii) the period for which the person is to be detained in hospital; and
  - (iv) the steps mentioned in section 46(2) (if any) which may be taken in relation to the person; and
- (b) be notified to—
- (i) the person to whom it applies;
  - (ii) any person to whom an explanation was given under section 31(5);  
and
  - (iii) any other person the sheriff considers appropriate.

**Commencement Information**

**II** S. 45 in force at 1.10.2009 by S.S.I. 2009/319, art. 2(a), Sch. 1

**Changes to legislation:**

There are currently no known outstanding effects for the Public Health etc. (Scotland) Act 2008, Section 45.