



# Public Health etc. (Scotland) Act 2008

## 2008 asp 5

### PART 4

#### PUBLIC HEALTH FUNCTIONS OF HEALTH BOARDS

##### *Breach of orders and offences*

#### **66 Absconding from quarantine**

- (1) Where a person who is subject to a quarantine order breaches that order by absconding—
  - (a) while being removed to the place at which that person is to be quarantined; or
  - (b) from that place,that person is liable to be taken into custody by a person mentioned in subsection (2) and detained in accordance with subsections (3) and (4).
- (2) The persons who may take a quarantined person into custody are—
  - (a) a constable;
  - (b) an officer of a health board;
  - (c) an officer of a local authority.
- (3) The quarantined person may be detained in—
  - (a) a hospital; or
  - (b) any other place.
- (4) The period for which the quarantined person may be detained by virtue of subsection (1) is the period or, as the case may be, the remainder of the period for which the quarantine of that person is authorised.
- (5) In calculating the period mentioned in subsection (4), the period beginning when the quarantined person absconded and ending when that person is detained in accordance with subsection (1) is to be left out of account.
- (6) A person who may take a quarantined person into custody may enter any premises in which the quarantined person is present.
- (7) The power of entry in subsection (6)—

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*Status: This is the original version (as it was originally enacted).*

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- (a) may be exercised at any time; and
- (b) includes power to use reasonable force.

- (8) A person who is taken into custody under this section and who absconds remains liable to be taken into custody under and detained in accordance with this section.
- (9) Notwithstanding the detention of a quarantined person in accordance with subsections (3) and (4), the health board may apply under section 49(2) for an extension of the quarantine order; and, where such an extension is granted, the quarantined person may be removed by a person mentioned in section 40(4) to the place in which the person is to be quarantined.

## **67 Absconding from hospital**

- (1) This section applies where a person is subject to—
- (a) a short term detention order; or
  - (b) an exceptional detention order.
- (2) A person who absconds—
- (a) while being removed to the hospital in which that person is to be detained; or
  - (b) from the hospital in which the person is detained,
- is liable to be taken into custody by a person mentioned in subsection (3) and returned to hospital in accordance with subsection (4).
- (3) The persons who may take a person who has absconded into custody are—
- (a) a constable;
  - (b) an officer of a health board;
  - (c) an officer of a local authority.
- (4) The absconding person may—
- (a) be returned to the hospital in which the person's detention is authorised; and
  - (b) be detained there for the period or, as the case may be, the remainder of the period for which detention of that person is authorised.
- (5) In calculating the period mentioned in subsection (4)(b), the period beginning when the person absconded and ending when that person is returned to hospital by virtue of subsection (2) is to be left out of account.
- (6) A person who may take an absconding person into custody may enter any premises in which the person is present.
- (7) The power of entry in subsection (6)—
- (a) may be exercised at any time; and
  - (b) includes power to use reasonable force.
- (8) A person who is taken into custody under this section and who absconds remains liable to be taken into custody under and dealt with in accordance with this section.

## **68 Obstruction**

A person commits an offence if that person, without reasonable excuse, intentionally obstructs—

- (a) a health care professional authorised by virtue of an order under section 34(1) to medically examine a person;
- (b) a person authorised by virtue of section 40(1) to remove a person to the place in which the person is to be quarantined; or
- (c) a person authorised by virtue of section 42(1) to remove a person to hospital.

## **69 Offences arising from breach of orders under this Part**

- (1) A person subject to an order mentioned in subsection (2) who, without reasonable excuse, breaches that order commits an offence.
- (2) The order referred to in subsection (1) is—
  - (a) an order under section 34(1) authorising medical examination;
  - (b) an exclusion order;
  - (c) a restriction order;
  - (d) a quarantine order (including any condition imposed by the order);
  - (e) a short term detention order;
  - (f) an exceptional detention order.

## **70 Failure to ensure child's compliance with order**

- (1) This section applies where an order mentioned in subsection (2) is made in relation to a person who is under 16 (a “child”).
- (2) The order referred to in subsection (1) is—
  - (a) an exclusion order;
  - (b) a restriction order; or
  - (c) a quarantine order.
- (3) A parent of the child who—
  - (a) has day-to-day care or control of the child; and
  - (b) fails, without reasonable excuse, to ensure that the child does not breach the order,commits an offence.
- (4) Where there is no such parent, a person mentioned in subsection (5) who fails, without reasonable excuse, to ensure that the child does not breach the order commits an offence.
- (5) The person referred to in subsection (4) is a person who—
  - (a) is 16 or over; and
  - (b) has day-to-day care or control of the child otherwise than—
    - (i) by virtue of a contract of employment or other contract with any person; or
    - (ii) as a volunteer for a voluntary organisation.
- (6) In proceedings for an offence under subsection (3) or (4), it is a defence for the person to prove that the person exercised all due diligence and took all reasonable steps to avoid committing the offence.