



# Public Health etc. (Scotland) Act 2008

## 2008 asp 5

### PART 4 **S**

#### PUBLIC HEALTH FUNCTIONS OF HEALTH BOARDS

##### *Recall of orders granted in absence*

#### **59** Recall of orders granted in absence of person to whom application relates **S**

- (1) This section applies where—
  - (a) a quarantine order;
  - (b) a short term detention order; or
  - (c) an exceptional detention order,is made in the absence of the person to whom the order applies.
- (2) A person mentioned in subsection (3) may apply to the sheriff for an order recalling the order.
- (3) The person referred to in subsection (2) is—
  - (a) the person to whom the order applies; or
  - (b) any person having an interest in the welfare of such a person.
- (4) An application under this section must be made before the expiry of the period of 72 hours beginning with the time at which the order to which the application relates is notified to the person to whom it applies.
- (5) Despite the making of an application under this section, the order to which it relates has effect as if the application were not made.
- (6) The sheriff must, before determining an application under this section, give the persons mentioned in subsection (7) the opportunity—
  - (a) of making representations (whether orally or in writing); and
  - (b) of leading, or producing, evidence.
- (7) Those persons are—
  - (a) the applicant;

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**Changes to legislation:** There are currently no known outstanding effects for the Public Health etc. (Scotland) Act 2008, Cross Heading: Recall of orders granted in absence. (See end of Document for details)

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- (b) where the applicant is not the person to whom the order applies, that person;
  - (c) the health board which applied for the order; and
  - (d) any other person the sheriff considers appropriate.
- (8) On an application under this section, the sheriff may—
- (a) confirm the order;
  - (b) revoke the order.

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**Commencement Information**

**II** S. 59 in force at 1.10.2009 by S.S.I. 2009/319, art. 2(a), Sch. 1

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Cross Heading: Recall of orders granted in absence.