



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;

Changes to legislation: Public Health etc. (Scotland) Act 2008, Section 44 is up to date with all changes known to be in force on or before 30 January 2019. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (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.

Annotations:

Commencement Information

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

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 92(1)(b)(i)(ii) inserted by [2016 asp 20 Sch. 1 para. 2\(a\)](#)