Public Health etc. (Scotland) Act 2008

2008 asp 5

PART 6

MORTUARIES ETC.

Protection of public from risks arising from bodies

90 Restriction on release of infected etc. bodies from hospital

(1) This section applies where—

(a) the body of a person—

(i) who has died of an infectious disease;

(ii) who had, immediately before dying, such a disease but who died of another cause; or

(iii) who was, immediately before dying, contaminated (whether the contamination caused the death or not),

is in a hospital; and

(b) the health board responsible for that hospital considers that, as a result of that disease or contamination—

(i) there is a significant risk to public health; and

(ii) it is necessary, to avoid or minimise that risk, for that body to be retained in hospital until the board is satisfied as to the arrangements for its disposal.

(2) The board may in writing direct that the body—

(a) must not be removed from the hospital without the board's written authorisation; and

(b) may be removed only—

(i) by a person specified in the authorisation; and

(ii) for the purpose of immediate disposal.

(3) The board may give a direction under subsection (2) only where a health board competent person certifies in writing that the person is satisfied as to the matters mentioned in subsection (1).

(4) Where a board gives a direction under subsection (2) it must explain to any person who appears to the board to be responsible for the removal and disposal of the body—

(a) that there is a significant risk to public health;

(b) the nature of that risk;

(c) any precautions which the board considers should be taken; and

(d) any other matter which the board considers appropriate.

(5) Subsection (4) does not apply in any case where the board has given an explanation under section 91(2) to the person to whom an explanation under subsection (4) would be given.

(6) Any person who, without reasonable excuse, breaches a direction under subsection (2) commits an offence.

(7) A direction under subsection (2) does not prevent the removal of the body in relation to which the direction is made to a mortuary or other similar premises for the purposes of the post-mortem examination of that body.

(8) In this Part, "disposal", in relation to a body—

(a) means burial or cremation; and

(b) includes preparation of the body for burial or cremation;

and cognate expressions are to be construed accordingly.

Commencement Information

I1 S. 90 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 90.