

PUBLIC HEALTH ETC. (SCOTLAND) ACT 2008

EXPLANATORY NOTES

THE ACT – OVERVIEW

Part 4

Public Health Functions of Health Boards

Removal to and detention in hospital

Section 41 Application to have person detained in hospital

80. This section deals with applications to the sheriff for an order to have a person detained in hospital. A health board may make such an application where it knows that a person in its area has an infectious disease or is contaminated, where there is a significant risk to public health and it is necessary, to avoid or minimise that risk, for the person to be detained in hospital. An application can be made for the person to be removed to and detained in hospital, if not in hospital already, or to be detained there, if the person is there already. Such an order is referred to as a “short term detention order”.
81. Subsection (4) sets out what must be specified in the application: the person to whom the order will apply; why the health board considers it necessary for the person to be detained in hospital; the hospital in which it is proposed to detain the person; the steps (if any) in section 46(2) that the board considers it is necessary to take in respect of the person; confirmation that an explanation has been given under section 31 (or if no explanation was given, the reason why); and any responses made to the explanation. The application must be accompanied by a certificate, signed by the health board competent person, indicating satisfaction that the criteria for the making of the application have been met.