

2009 No. 320

SHERIFF COURT

**Act of Sederunt (Summary Applications, Statutory Applications
and Appeals etc. Rules) Amendment (Public Health etc.
(Scotland) Act 2008) 2009**

Made - - - - *18th September 2009*

Coming into force - - *1st October 2009*

The Lords of Council and Session, under and by virtue of the powers conferred by section 32 of the Sheriff Courts (Scotland) Act 1971(a), section 71(2) of the Public Health etc. (Scotland) Act 2008(b), and of all other powers enabling them in that behalf, having approved draft rules submitted to them by the Sheriff Court Rules Council in accordance with section 34 of the said Act of 1971, do hereby enact and declare:

Citation and commencement

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) Amendment (Public Health etc. (Scotland) Act 2008) 2009 and comes into force on 1st October 2009.

(2) This Act of Sederunt is to be inserted in the Books of Sederunt.

Amendment of the Summary Application Rules: Public Health etc. (Scotland) Act 2008

2.—(1) The Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) 1999(c) is amended in accordance with subparagraph (2).

(2) After Part XXXVIII (Counter-Terrorism Act 2008)(d), insert—

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- (a) 1971 c.58. Section 32 was amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73), Schedule 2, paragraph 12, the Civil Evidence (Scotland) Act 1988 (c.32), section 2(4), the Children (Scotland) Act 1995 (c.36), Schedule 4, paragraph 18(2), the Adults with Incapacity (Scotland) Act 2000 (asp 4) (“the 2000 asp”), schedule 5, paragraph 13, the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17), section 43 the Vulnerable Witnesses (Scotland) Act 2004 (asp 3), section 14(2) the Consumer Credit Act 2006 (c.14), section 16(4) and the Bankruptcy and Diligence (Scotland) Act 2007 (asp 3), section 33 and was extended by the Debtors (Scotland) Act 1987 (c.18), section 97, the Child Support Act 1991 (c.48), sections 39(2) and 49 and by section 2(4) of the 2000 asp.
- (b) 2008 asp 5.
- (c) S.I. 1999/929, amended by S.S.I. 2000/18 and 387, 2001/142, 2002/7, 129, 130, 146 and 563, 2003/26, 27, 98, 261, 319, 346 and 556, 2004/197, 222, 334 and 455, 2005/61, 473, 504 and 648, 2006/198, 410, 437 and 509, 2007/6, 233, 339, 440 and 463, 2008/9, 41, 111, 223, 335 and 365 and 2009/107 and 109.
- (d) Part XXXVIII was inserted by S.S.I. 2009/294.

**“PART XXXIX
PUBLIC HEALTH ETC. (SCOTLAND) ACT 2008**

Interpretation

3.39.1. In this Part—

“the Act” means the Public Health etc. (Scotland) Act 2008(a);

“an investigator” means a person appointed under section 21 of the Act;

“health board competent person” has the same meaning as in section 124 of the Act,

and words and expressions used in this Part and in the Act shall have the same meaning given in the Act.

Application for a public health investigation warrant

3.39.2.—(1) An application made by an investigator for a warrant under section 27(2) of the Act (public health investigation warrants) shall be in Form 36.

(2) Where such a warrant is granted by the sheriff it shall be in Form 37.

Application for an order for medical examination

3.39.3.—(1) An application made by a health board for an order under section 34(1) of the Act (order for medical examination) shall be in Form 38.

(2) On receipt of an application mentioned in paragraph (1), the sheriff may order intimation of the application to such persons, within such a timescale and by such method as he sees fit.

(3) Where an order for a medical examination is granted by the sheriff it shall be in Form 39.

(4) Subject to the requirements of section 34(6)(b)(i) and (ii) of the Act, where an order for a medical examination is granted, the sheriff may direct that the order be notified to such persons, within such a timescale and by such method as he sees fit.

(5) For the avoidance of doubt, the method of intimation or notification referred to in paragraphs (2) and (4) may include intimation or notification by telephone, email or facsimile transmission.

Application for a quarantine order

3.39.4.—(1) An application made by a health board for a quarantine order under section 40(1) of the Act (quarantine orders) shall be in Form 40.

(2) On receipt of an application mentioned in paragraph (1), the sheriff may order intimation of the application to such persons, within such a timescale and by such method as he sees fit.

(3) Where a quarantine order is granted by the sheriff it shall be in Form 41.

(4) Subject to the requirements of section 40(6)(b)(i) and (ii) of the Act, where a quarantine order is granted, the sheriff may direct that the order be notified to such persons, within such a timescale and by such method as he sees fit.

(5) For the avoidance of doubt, the method of intimation or notification referred to in paragraphs (2) and (4) may include intimation or notification by telephone, email or facsimile transmission.

(a) 2008 asp 5.

Application for a short term detention order

3.39.5.—(1) An application made by a health board for a short term detention order under section 42(1) of the Act (order for removal to and detention in hospital) shall be in Form 42.

(2) An application made by a health board for a short term detention order under section 43(1) of the Act (order for detention in hospital) shall be in Form 44.

(3) On receipt of an application mentioned in paragraph (1) or (2), the sheriff may order intimation of the application to such persons, within such a timescale and by such method as he sees fit.

(4) Where a short term detention order is granted by the sheriff under section 42(1) of the Act it shall be in Form 43.

(5) Where a short term detention order is granted by the sheriff under section 43(1) of the Act it shall be in Form 45.

(6) Subject to the requirements of sections 42(4)(b)(i) and (ii) and 43(4)(b)(i) and (ii) of the Act, where a short term detention order is granted under section 42(1) or 43(1) of the Act, the sheriff may direct that the order be notified to such persons, within such a timescale and by such method as he sees fit.

(7) For the avoidance of doubt, the method of intimation or notification referred to in paragraphs (3) and (6) may include intimation or notification by telephone, email or facsimile transmission.

Application for an exceptional detention order

3.39.6.—(1) An application made by a health board for an exceptional detention order under section 45(1) of the Act (exceptional detention order) shall be in Form 46.

(2) On receipt of an application mentioned in paragraph (1), the sheriff may order intimation of the application to such persons, within such a timescale and by such method as he sees fit.

(3) Where an exceptional detention order is granted by the sheriff it shall be in Form 47.

(4) Subject to the requirements of section 45(4)(b)(i) and (ii) of the Act, where an exceptional detention order is granted, the sheriff may direct that the order be notified to such persons, within such a timescale and by such method as he sees fit.

(5) For the avoidance of doubt, the method of intimation or notification referred to in paragraphs (2) and (4) may include intimation or notification by telephone, email or facsimile transmission.

Application for extension of a quarantine order, short term detention order or exceptional detention order

3.39.7.—(1) An application made by a health board for an extension to a quarantine order, a short term detention order or an exceptional detention order under section 49(5) of the Act (extension of quarantine and hospital detention orders) shall be in Form 48.

(2) On receipt of an application mentioned in paragraph (1), the sheriff may order intimation of the application to such persons, within such a timescale and by such method as he sees fit.

(3) Where an order extending a quarantine order, a short term detention order or an exceptional detention order is granted by the sheriff it shall be in Form 49.

(4) Subject to the requirements of section 49(10)(b)(i) and (ii) of the Act, where an order mentioned in paragraph (3) is granted, the sheriff may direct that the order be notified to such persons, within such a timescale and by such method as he sees fit.

(5) For the avoidance of doubt, the method of intimation or notification referred to in paragraphs (2) and (4) may include intimation or notification by telephone, email or facsimile transmission.

Application for modification of a quarantine order, short term detention order or exceptional detention order

3.39.8.—(1) An application made by a health board for an order modifying a quarantine order, a short term detention order or an exceptional detention order under section 51(1) of the Act (variation of quarantine and hospital detention orders) shall be in Form 50.

(2) On receipt of an application mentioned in paragraph (1), the sheriff may order intimation of the application to such persons, within such a timescale and by such method as he sees fit.

(3) Where an order modifying a quarantine order, a short term detention order or an exceptional detention order is granted by the sheriff it shall be in Form 51.

(4) Subject to the requirements of section 51(5)(b)(i) and (ii) of the Act, where an order mentioned in paragraph (3) is granted, the sheriff may direct that the order be notified to such persons, within such a timescale and by such method as he sees fit.

(5) For the avoidance of doubt, the method of intimation or notification referred to in paragraphs (2) and (4) may include intimation or notification by telephone, email or facsimile transmission.

Application for recall of an order granted in the absence of the person to whom it relates

3.39.9.—(1) An application for recall of a quarantine order, a short term detention order or an exceptional detention order under section 59 of the Act (recall of orders granted in absence of persons to whom application relates) shall be in Form 52.

(2) Subject to section 59(6) of the Act, on receipt of an application mentioned in paragraph (1), the sheriff may order intimation of the application to such persons, within such a timescale and by such method as he sees fit.

(3) Where an order recalling a quarantine order, a short term detention order or an exceptional detention order is granted by the sheriff it shall be in Form 53.

(4) Where an order mentioned in paragraph (3) is granted, the sheriff may direct that the order be notified to such persons, within such a timescale and by such method as he sees fit.

(5) For the avoidance of doubt, the method of intimation or notification referred to in paragraphs (2) and (4) may include intimation or notification by telephone, email or facsimile transmission.

Intimation of applications in relation to a child

3.39.10.—(1) This rule applies where an application is made under this Part and the person who it is proposed will be subject to the order is under 16.

(2) On receipt of an application mentioned in paragraph (1), the sheriff may, in particular, order intimation of the application to a person who has day-to-day care or control of the person mentioned in paragraph (1).

Intimation of orders on the person to whom they apply

3.39.11. Where a sheriff, in the absence of the person to whom it applies, grants—

- (a) a quarantine order under section 40(1) of the Act;
- (b) a short term detention order under section 42(1) of the Act;
- (c) an exceptional detention order under section 45 of the Act,

and the order is intimated to the person to whom it applies, a copy of Form 52 shall be delivered to that person along with the order.

Appeal to the sheriff against an exclusion order or a restriction order

3.39.12.—(1) An appeal to the sheriff under section 61 of the Act (appeal against exclusion orders and restriction orders) in respect of an exclusion order or a restriction order shall be marked by lodging a note of appeal in Form 54.

(2) On the lodging of a note of appeal, the sheriff clerk shall send a copy of the note of appeal to—

- (a) the health board competent person who made the exclusion order or restriction order; and
- (b) the person in relation to whom the order applies, where that person is not the appellant.

(3) The sheriff shall make such order as he thinks fit in order to dispose of the appeal.

Application for a warrant to enter premises and take steps under Part 5 of the Act

3.39.13.—(1) An application made by a local authority for a warrant under section 78(2) of the Act (warrant to enter and take steps) shall be in Form 55.

(2) Where such a warrant is granted by the sheriff it shall be in Form 56.

Application for an order for disposal of a body

3.39.14.—(1) An application made by a local authority for an order for the disposal of a body under section 93 of the Act (power of sheriff to order removal to mortuary and disposal) shall be in Form 57.

(2) Where such an order is granted by the sheriff it shall be in Form 58.

Application for appointment of a single arbiter to determine a dispute in relation to compensation

3.39.15. An application under sections 30(6), 56(5), 57(3), 58(4) or 82(3) of the Act for the appointment of a single arbiter to determine a dispute in relation to compensation may be made by written application in the form of a letter addressed to the sheriff clerk.”.

(3) In Schedule 1, after Form 35 insert the forms set out in the Schedule to this Act of Sederunt.

A.C. HAMILTON
Lord President
I.P.D.

Edinburgh
18th September 2009

SCHEDULE

Paragraph 2(3)

Form 36

Rule 3.39.2(1)

FORM OF APPLICATION FOR WARRANT UNDER SECTION 27 OF THE PUBLIC HEALTH ETC. (SCOTLAND) ACT 2008

SHERIFFDOM OF *(insert name of sheriffdom)*

AT *(insert place of sheriff court)*

[A.B.] *(design and state address)*, Applicant

Order sought from the court

The applicant applies to the court to grant warrant to him:

1. to enter the premises at *(insert address of premises to which entry is sought)*.
2. to take with him any other person he may authorise and, if he has reasonable cause to expect any serious obstruction in obtaining access, a constable.
3. to take with him any equipment or materials required for any purpose for which the power of entry is being exercised.
4. to direct that those premises (or any part of them) are, or any thing in or on them is, to be left undisturbed (whether generally or in particular respects) for so long as he considers appropriate.
5. to exercise any of the powers conferred by sections 23, 24 and 25 of the Public Health etc. (Scotland) Act 2008 ("the Act").

Statement

**Delete as appropriate*

1. This application is made pursuant to section 27 of the Act.
2. The applicant is an investigator duly appointed in terms of section 21(2) of the Act to carry out a public health investigation.
3. The said premises are*/are not* a dwellinghouse.
4. The said premises are within the jurisdiction of this court.
5. The applicant considers it necessary for the purpose of, or in connection with, a public health investigation to exercise the powers of entry available to him under section 22 of the Act, the other investigatory powers mentioned in section 23 of the Act, the power to ask questions mentioned in section 24 of the Act and any supplementary power mentioned in section 25 of the Act *(insert here a brief statement of reasons)*.

*6. [*If the said premises are a dwellinghouse*] The applicant has in terms of section 26(2) of the Act given 48 hours notice of the proposed entry to a person who appears to be the occupier of the dwellinghouse and the period of notice has expired.

*7. The applicant is an investigator entitled to enter premises under section 22 of the Act and

*the applicant has been refused entry to the said premises, or

*the applicant reasonably anticipates that entry will be refused

OR

*7. The said premises are premises which the applicant is entitled to enter and they are unoccupied.

OR

*7. The said premises are premises which the applicant is entitled to enter and the occupier thereof is temporarily absent and there is urgency because (*here state briefly why there is urgency*).

OR

*7. The applicant is an investigator entitled to exercise a power under section 23 or 24 of the Act and

*has been prevented from exercising that power, or

*reasonably anticipates being prevented from exercising that power.

OR

*7. An application for admission to the said premises would defeat the object of the public health investigation.

8. In the circumstances narrated the applicant is entitled to the warrant sought and it should be granted accordingly.

(signed)

[A.B.] Applicant
or [X.Y.] (add designation and business address)

Solicitor for applicant

(insert date)

Form 37

Rule 3.39.2(2)

FORM OF WARRANT FOR A PUBLIC HEALTH INVESTIGATION

Sheriff Court

..... 20

(Court Ref. No.)

**Delete as appropriate*

The sheriff, having considered an application made under section 27 of the Public Health etc. (Scotland) Act 2008 (“the Act”) *[and productions lodged therewith] *[and (*where the premises referred to below are a dwellinghouse*) being satisfied that due notice has been given under section 26(2) of the Act and has expired],

Grants warrant to the applicant (*insert name*) as sought and authorises him:

- (a) to enter the premises at (*insert address*),
- (b) on entering the premises referred to at paragraph (a), to take—
 - (i) any other person authorised by him and, if he has reasonable cause to expect any serious obstruction in obtaining access, a constable; and
 - (ii) any equipment or materials required for any purpose for which the power of entry is being exercised,
- (c) to direct that—
 - (i) those premises (or any part of them) are; or
 - (ii) any thing in or on those premises is,

to be left undisturbed (whether generally or in particular respects) for so long as he considers appropriate.

- (d) to exercise any power mentioned in sections 23 to 25 of the Act.

(*signed*)

Sheriff

Form 38

Rule 3.39.3(1)

FORM OF APPLICATION FOR MEDICAL EXAMINATION OF A PERSON UNDER SECTION 34 OF THE PUBLIC HEALTH ETC. (SCOTLAND) ACT 2008

SHERIFFDOM OF *(insert name of sheriffdom)*

AT *(insert place of sheriff court)*

[A.B.] *(design health board)*, Applicant

Order sought from the court

**Delete as appropriate*

The applicant applies to the court to grant an order under section 34(1) of the Public Health etc. (Scotland) Act 2008 (“the Act”) authorising the medical examination of *(insert name, address and date of birth of person to be medically examined)* (“the person”).

**And (if necessary, request any specialities in connection with the examination, about which the court’s additional authority is sought pursuant to section 34(3) of the Act).*

Statement

**Delete as appropriate*

1. This application is made pursuant to sections 33 and 34 of the Act.
2. The person is present within the applicant’s area. The applicant is a health board operating within the jurisdiction of this court. This court accordingly has jurisdiction.
3. **The person is aged 16 years or over.*

OR

**The person is under 16. The parent or other person who has day-to-day care or control of the person is *(insert name, address and relationship to the person)*.*

4. (a) The applicant **knows/*suspects* that the person—
 - *(i)* has an infectious disease, namely *[insert name of disease]*;
 - *(ii)* has been exposed to an organism which causes an infectious disease *[insert name of disease]*;
 - *(iii)* is contaminated; or
 - *(iv)* has been exposed to a contaminant,

(insert here a brief statement indicating the basis upon which these matters are known or suspected by the applicant)

AND

- (b) It appears to the applicant that as a result—
- (i) there is or may be a significant risk to public health; and
 - (ii) it is necessary, to avoid or minimise that risk, for the person to be medically examined.

(Insert here a brief statement indicating the reason why the applicant considers that there is or may be a significant risk to public health and that it is necessary, to avoid or minimise that risk, for the person to be medically examined).

5. The applicant proposes that the examination be carried out by *(insert proposed class or classes of health care professional)*.
6. The applicant proposes that the examination be *(insert nature of the proposed examination)*.
- *7. The applicant has explained to the person—
- (a) that there is a significant risk to public health;
 - (b) the nature of that risk; and
 - (c) why the applicant considers it necessary for the proposed action to be taken in relation to that person.

OR

- *7. The applicant states that the person is incapable of understanding any explanation of the matters referred to at section 31(3) of the Act *(state reason)* and has explained to *(insert name and address of a person mentioned in section 31(5)(a) or (b) of the Act and their relationship to the person)*—
- (a) that there is a significant risk to public health;
 - (b) the nature of that risk; and
 - (c) why the applicant considers it necessary for the proposed action to be taken in relation to that person.

OR

- *7. The applicant states that no explanation has been given in relation to this application under section 31(3) or (5) of the Act because *(state why it was not reasonably practicable to do so)*.
- *8. The applicant states that **a response was made/*representations were made on behalf of the person in the following terms (insert response or representations made)*.

9. The applicant attaches to this application a certificate signed by a health board competent person which indicates that the competent person is satisfied as to the matters mentioned in statement 4 [*and (*in a case where medical examination of a group is sought*) that it is necessary, to avoid or minimise an actual or anticipated significant risk to public health, for all the persons in the group to be medically examined].
10. In the circumstances narrated the applicant is entitled to the order sought and it should be granted accordingly.

(signed)

[X.Y.] (*add designation and business address*)

Solicitor for applicant

(insert date)

Form 39

Rule 3.39.3(3)

FORM OF ORDER FOR A MEDICAL EXAMINATION

Sheriff Court

..... 20 at [*insert time*]

(Court Ref. No.)

The sheriff, having considered an application made under section 33(2) of the Public Health etc. (Scotland) Act 2008 (“the Act”) *[and productions lodged therewith], and being satisfied as necessary as to the matters mentioned in section 34(2) of the Act,

1. Makes an order in terms of section 34(1) of the Act authorising the medical examination of (*insert details of the person as given in the application*) and authorises (*insert the class or classes of health care professional by whom the medical examination is to be carried out*) to carry out the examination,

**And (add any additional matters to be dealt with in the order in terms of section 34(3) of the Act).*

2. Directs notification of this order (*insert details of method and timing of notice*) to (*the person to whom the order applies*)

**and (the name and designation of any person to whom an explanation was given under section 31(5) of the Act)*

**and (insert the name and designation of any other person whom the sheriff considers appropriate).*

**Delete as appropriate*

(*signed*)

Sheriff

Form 40

Rule 3.39.4(1)

FORM OF APPLICATION FOR QUARANTINE ORDER UNDER SECTION 40 OF THE PUBLIC HEALTH ETC. (SCOTLAND) ACT 2008

SHERIFFDOM OF (*insert name of sheriffdom*)

AT (*insert place of sheriff court*)

[A.B.] (*design health board*), Applicant

Order sought from the court

**Delete as appropriate*

The applicant applies to the court for a quarantine order under section 40(1) of the Public Health etc. (Scotland) Act 2008 (“the Act”) authorising the quarantining of (*insert name, address and date of birth of person to be quarantined*) (“the person”) for a period of (*insert period*).

**and the person’s removal to (*insert place of quarantine*) [by (*insert, if sought, the name and designation of a person mentioned in section 40(4)(d) of the Act*)].*

**authorising the taking in relation to the person of the following steps, namely
*disinfection/*disinfestation/*decontamination (*specify which steps are sought*)*

**and imposing the following conditions in relation to the quarantine (*insert conditions sought*).*

Statement

**Delete as appropriate*

1. This application is made pursuant to sections 39 and 40 of the Act.
2. The person is present within the applicant’s area. The applicant is a health board operating within the jurisdiction of this court. This court accordingly has jurisdiction.
3. **The person is aged 16 years or over.*

OR

**The person is under 16. The parent or other person who has day-to-day care or control of the person is (*insert name, address and relationship to the person*).*

4. (a) The applicant **knows/*has* reasonable grounds to suspect that the person—
 - *(i)* has an infectious disease, namely [*insert name of disease*];
 - *(ii)* has been exposed to an organism which causes an infectious disease [*insert name of disease*];
 - *(iii)* is contaminated; or

***(iv)** has been exposed to a contaminant,

(insert here a brief statement indicating the basis upon which these matters are known or suspected by the applicant)

AND

(b) that as a result—

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

(ii) it is necessary, to avoid or minimise that risk, for the person to be quarantined.

(Insert here a brief statement indicating the reason why the applicant considers that there is or may be a significant risk to public health and that it is necessary, to avoid or minimise that risk, for the person to be quarantined).

5. The applicant proposes that the person be quarantined at *(insert place and address)* *[and that he should be removed there by *(insert name and designation of person under section 40(4)(d) of the Act)*]. *(Indicate briefly why this is proposed).*

6. The applicant proposes that the person be quarantined for *(insert period of time)*.

7. The applicant considers it necessary to *disinfect/*disinfest/*decontaminate the person *(insert details and reasons)*.

***8.** The applicant considers the conditions sought to be included in the order to be necessary because *(insert reasons)*.

***9** The applicant has explained to the person—

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

(b) the nature of that risk; and

(c) why the applicant considers it necessary for the proposed action to be taken in relation to that person.

OR

***9.** The applicant states that the person is incapable of understanding any explanation of the matters referred to at section 31(3) of the Act *(state reason)* and has explained to *(insert name and address of a person mentioned in section 31(5)(a) or (b) of the Act and their relationship to the person)*—

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

(b) the nature of that risk; and

(c) why the applicant considers it necessary for the proposed action to be taken in relation to that person.

OR

- *9** The applicant states that no explanation has been given in relation to this application under section 31(3) or (5) of the Act because *(state why it was not reasonably practicable to do so)*.
- *10.** The applicant states that **a response was made/*representations were made* on behalf of the person in the following terms *(insert response or representations made)*.
- 11.** The applicant attaches to this application a certificate signed by a health board competent person which indicates that the competent person is satisfied as to the matters mentioned in statement 4.
- 12.** In the circumstances narrated the applicant is entitled to the order sought and it should be granted accordingly.

(signed)

[X.Y.] *(add designation and business address)*

Solicitor for applicant

(insert date)

Form 41

Rule 3.39.4(3)

FORM OF QUARANTINE ORDER

Sheriff Court

..... 20 at *(insert time)*

(Court Ref. No.)

The sheriff, having considered an application made under section 39(2) of the Public Health etc. (Scotland) Act 2008 (“the Act”) *[and productions lodged therewith], and being satisfied as necessary as to the matters mentioned in section 40(2) of the Act,

1. Makes an order in terms of section 40(1) of the Act authorising the quarantining of *(insert details of the person as given in the application)* in *(insert the place in which the person is to be quarantined)* for a period of *(insert the period for which the person is to be quarantined)* and

Authorising the removal of *(insert name of the person)* to *(insert address at which the person is to be quarantined)*

Further *(insert any authorisation for disinfection/disinfestation/decontamination)*,

(Insert any conditions imposed by the order including the name and designation of any person authorised under section 40(4)(d) of the Act to effect a removal), and

2. Directs notification of this order *(insert details of method and timing of notice)* to *(the person to whom the order applies)*

*and *(the name and designation of any person to whom an explanation was given under section 31(5) of the Act)*

*and *(insert the name and designation of any other person whom the sheriff considers appropriate)*.

**Delete as appropriate*

(signed)

Sheriff

Form 42

Rule 3.39.5(1)

FORM OF APPLICATION TO HAVE A PERSON REMOVED TO AND DETAINED IN HOSPITAL UNDER SECTION 42 OF THE PUBLIC HEALTH ETC. (SCOTLAND) ACT 2008

SHERIFFDOM OF (*insert name of sheriffdom*)

AT (*insert place of sheriff court*)

[A.B.] (*design health board*), Applicant

Order sought from the court

**Delete as appropriate*

The applicant applies to the court for a short term detention order under section 42(1) of the Public Health etc. (Scotland) Act 2008 (“the Act”) in respect of (*insert name, address and date of birth of person to be subject to the order*) (“the person”).

1. authorising the person’s removal to hospital **[by (insert name and designation of a person mentioned in section 42(1)(a) of the Act)]* and the person’s detention in hospital for the period of (*insert period*), and
2. authorising the taking in relation to the person of the following steps, namely **disinfection/ *disinfestation/*decontamination (specify which steps are sought)*.

Statement

**Delete as appropriate*

1. This application is made pursuant to sections 41 and 42 of the Act.
2. The person is present within the applicant’s area. The applicant is a health board operating within the jurisdiction of this court. This court accordingly has jurisdiction.
3. **The person is aged 16 years or over.*

OR

**The person is under 16. The parent or other person who has day-to-day care or control of the person is (insert name, address and relationship to the person).*

4. (a) The applicant knows that the person—
 - *(i) has an infectious disease, namely [insert name of disease]; or*
 - *(ii) is contaminated,*

(insert here a brief statement indicating the basis upon which these matters are known to the applicant)

AND

- (b) it appears to the applicant that as a result—
 - (i) there is a significant risk to public health; and
 - (ii) it is necessary, to avoid or minimise that risk, for the person to be detained in hospital

(Insert here a brief statement indicating the reason why the applicant considers that there is a significant risk to public health and that it is necessary, to avoid or minimise that risk, for the person to be detained in hospital).

- 5. The applicant proposes that the person be detained at *(insert name and address of hospital)* *[and that he should be removed there by *(insert name and designation of person under section 42(1)(a) of the Act and indicate briefly why this is proposed)*].
- 6. The applicant proposes that the person be detained for *(insert period of time)*.
- 7. The applicant considers it necessary to *disinfect/*disinfest/*decontaminate the person *(insert details and reasons)*.
- *8. The applicant has explained to the person—
 - (a) that there is a significant risk to public health;
 - (b) the nature of that risk; and
 - (c) why the applicant considers it necessary for the proposed action to be taken in relation to that person.

OR

- *8. The applicant states that the person is incapable of understanding any explanation of the matters referred to at section 31(3) of the Act *(state reason)* and has explained to *(insert name and address of a person mentioned in section 31(5)(a) or (b) of the Act and their relationship to the person)*—
 - (a) that there is a significant risk to public health;
 - (b) the nature of that risk; and
 - (c) why the applicant considers it necessary for the proposed action to be taken in relation to that person.

OR

- *8. The applicant states that no explanation has been given in relation to this application under section 31(3) or (5) of the Act because *(state why it was not reasonably practicable to do so)*.
- *9. The applicant states that *a response was made/*representations were made on behalf of the person in the following terms *(insert response or representations made)*.

10. The applicant attaches to this application a certificate signed by a health board competent person which indicates that the competent person is satisfied as to the matters mentioned in statement 4.
11. In the circumstances narrated the applicant is entitled to the order sought and it should be granted accordingly.

(signed)

Solicitor for applicant

[X.Y.] *(add designation and business address)*

(insert date)

Form 43

Rule 3.39.5(4)

FORM OF SHORT TERM DETENTION ORDER – REMOVAL TO AND DETENTION IN HOSPITAL

Sheriff Court

..... 20 at (*insert time*)

(Court Ref. No.)

The sheriff, having considered an application made under section 41(2) of the Public Health etc. (Scotland) Act 2008 (“the Act”) *[and productions lodged therewith], and being satisfied as necessary as to the matters mentioned in section 42(2) of the Act,

1. Makes an order in terms of section 42(1) of the Act authorising the short term detention in hospital of (*insert details of the person as given in the application*),

Authorising the removal of that person by (*specify person authorised to carry out removal in terms of section 42(1)(a) of the Act*) to (*specify hospital at which the person is to be detained, including the address*), there to be detained for (*insert period of detention*)

Further (*insert any authorisation for disinfection/disinfestation/decontamination*), and

2. Directs notification of this order (*insert details of method and timing of notice*) to (*the person to whom the order applies*)

*and (*the name and designation of any person to whom an explanation was given under section 31(5) of the Act*)

*and (*insert the name and designation of any other person whom the sheriff considers appropriate*).

**Delete as appropriate*

(*signed*)

Sheriff

Form 44

Rule 3.39.5(2)

FORM OF APPLICATION FOR A SHORT TERM DETENTION ORDER UNDER SECTION 43 OF THE PUBLIC HEALTH ETC. (SCOTLAND) ACT 2008

SHERIFFDOM OF *(insert name of sheriffdom)*

AT *(insert place of sheriff court)*

[A.B.] *(design health board)*, Applicant

Order sought from the court

**Delete as appropriate*

The applicant applies to the court for a short term detention order under section 43(1) of the Public Health etc. (Scotland) Act 2008 (“the Act”) in respect of *(insert name, address and date of birth of person to be subject to the order)* (“the person”).

1. authorising the person’s detention in hospital for a period of *(insert period)*, and
2. authorising the taking in relation to the person of the following steps, namely **disinfection/ *disinfestation/*decontamination (specify which steps are sought)*.

Statement

**Delete as appropriate*

1. This application is made pursuant to sections 41 and 43 of the Act.
2. The person is present within the applicant’s area. The applicant is a health board operating within the jurisdiction of this court. This court accordingly has jurisdiction.
3. **The person is aged 16 years or over.*

OR

**The person is under 16. The parent or other person who has day-to-day care or control of the person is (insert name, address and relationship to the person).*

4. (a) The applicant knows that the person—
 - *(i) has an infectious disease, namely [insert name of disease]; or*
 - *(ii) is contaminated,*

(insert here a brief statement indicating the basis upon which these matters are known to the applicant)

AND

- (b) it appears to the applicant that as a result—
 - (i) there is a significant risk to public health; and
 - (ii) it is necessary, to avoid or minimise that risk, for the person to be detained in hospital.

(Insert here a brief statement indicating the reason why the applicant considers that there is a significant risk to public health and that it is necessary, to avoid or minimise that risk, for the person to be detained in hospital).

- 5. The person is currently in *(insert name and address of hospital)*. The applicant proposes that the person be detained at *(insert name and address of hospital)*.
- 6. The applicant proposes that the person be detained for *(insert period of time)*.
- 7. The applicant considers it necessary to **disinfect/*disinfect/*decontaminate* the person *(insert details and reasons)*.
- *8. The applicant has explained to the person—
 - (a) that there is a significant risk to public health;
 - (b) the nature of that risk; and
 - (c) why the applicant considers it necessary for the proposed action to be taken in relation to that person.

OR

- *8. The applicant states that the person is incapable of understanding any explanation of the matters referred to at section 31(3) of the Act *(state reason)* and has explained to *(insert name and address of a person mentioned in section 31(5)(a) or (b) of the Act and their relationship to the person)*—
 - (a) that there is a significant risk to public health;
 - (b) the nature of that risk; and
 - (c) why the applicant considers it necessary for the proposed action to be taken in relation to that person.

OR

- *8. The applicant states that no explanation has been given in relation to this application under section 31(3) or (5) of the Act because *(state why it was not reasonably practicable to do so)*.
- *9. The applicant states that **a response was made/*representations were made* on behalf of the person in the following terms *(insert response or representations made)*.

10. The applicant attaches to this application a certificate signed by a health board competent person which indicates that the competent person is satisfied as to the matters mentioned in statement 4.
11. In the circumstances narrated the applicant is entitled to the order sought and it should be granted accordingly.

(signed)

[X.Y.] *(add designation and business address)*

Solicitor for applicant

(insert date)

Form 45

Rule 3.39.5(5)

FORM OF SHORT TERM DETENTION ORDER – DETENTION IN HOSPITAL

Sheriff Court

..... 20 at (*insert time*)

(Court Ref. No.)

The sheriff, having considered an application made under section 41(2) of the Public Health etc. (Scotland) Act 2008 (“the Act”) *[and productions lodged therewith], and being satisfied as necessary as to the matters mentioned in section 43(2) of the Act,

1. Makes an order in terms of section 43(1) of the Act authorising the short term detention in hospital of (*insert details of the person as given in the application*) at (*insert name and address of hospital*) for (*insert period of detention*)

Further (*insert any authorisation for disinfection/disinfestation/decontamination*), and

2. Directs notification of this order (*insert details of method and timing of notice*) to (*the person to whom the order applies*)

**and (the name and designation of any person to whom an explanation was given under section 31(5) of the Act)*

**and (insert the name and designation of any other person whom the sheriff considers appropriate).*

**Delete as appropriate*

(*signed*)

Sheriff

Form 46

Rule 3.39.6(1)

FORM OF APPLICATION FOR EXCEPTIONAL DETENTION ORDER UNDER SECTION 45 OF THE PUBLIC HEALTH ETC. (SCOTLAND) ACT 2008

SHERIFFDOM OF (*insert name of sheriffdom*)

AT (*insert place of sheriff court*)

[A.B.] (*design health board*), Applicant

Order sought from the court

**Delete as appropriate*

The applicant applies to the court for an exceptional detention order under section 45(1) of the Public Health etc. (Scotland) Act 2008 (“the Act”) in respect of (*insert name, address and date of birth of person to be subject to the order*) (“the person”).

1. authorising the person’s continued detention in hospital for a period of (*insert period*), and
2. authorising the taking in relation to the person of the following steps, namely **disinfection/ *disinfestation/*decontamination (specify which steps are sought)*.

Statement

**Delete as appropriate*

1. This application is made pursuant to sections 44 and 45 of the Act.
2. The person is presently detained in a hospital within the applicant’s area by virtue of a short term detention order. The applicant is a health board operating within the jurisdiction of this court and applied for the short term detention order. This court accordingly has jurisdiction.
3. **The person is aged 16 years or over.*

OR

**The person is under 16. The parent or other person who has day-to-day care or control of the person is (*insert name, address and relationship to the person*).*

4. The applicant is satisfied—
 - (a) that the person—
 - *(i) has an infectious disease, namely [*insert name of disease*]; or*
 - *(ii) is contaminated,*

AND

(b) that as a result there is a significant risk to public health,

(insert here a brief statement indicating the basis upon which the applicant is satisfied of these matters)

AND

(c) that it continues to be necessary, to avoid or minimise that risk, for the person to be detained in hospital *(insert here a brief statement indicating the reason why the applicant considers it necessary for the person to be detained in hospital),*

AND

(d) that it is necessary, to avoid or minimise that risk, for the person to be detained for a period exceeding the maximum period for which the person could be detained by virtue of the short term detention order were that order to be extended under section 49(5)(a) of the Act *(insert here a brief statement indicating the reason why the applicant considers it necessary for the person to be detained beyond that maximum period).*

5. The person is currently detained in *(insert name and address of hospital)* by virtue of a short term detention order granted on *(insert date)*. The said order is extant until *[insert date]*. The applicant proposes that the person be detained at *(insert name and address of hospital)*.

6. The applicant applies to the court to order that the person continue to be detained in *(insert name and address of hospital)* for *(insert period of time)* from *(insert date from which the order is to commence)*.

7. The applicant considers it necessary to *disinfect/*disinfest/*decontaminate the person *(insert details and reasons)*.

*8. The applicant has explained to the person—

- (a) that there is a significant risk to public health;
- (b) the nature of that risk; and
- (c) why the applicant considers it necessary for the proposed action to be taken in relation to that person.

OR

*8. The applicant states that the person is incapable of understanding any explanation of the matters referred to at section 31(3) of the Act *(state reason)* and has explained to *(insert name and address of a person mentioned in section 31(5)(a) or (b) of the Act and their relationship to the person)*—

- (a) that there is a significant risk to public health;
- (b) the nature of that risk; and
- (c) why the applicant considers it necessary for the proposed action to be taken in relation to that person.

OR

- *8.** The applicant states that no explanation has been given in relation to this application under section 31(3) or (5) of the Act because *(state why it was not reasonably practicable to do so)*.
- *9.** The applicant states that **a response was made/*representations were made* on behalf of the person in the following terms *(insert response or representations made)*.
- 10.** The applicant attaches to this application a certificate signed by a health board competent person which indicates that the competent person is satisfied as to the matters mentioned in statement 4.
- 11.** In the circumstances narrated the applicant is entitled to the order sought and it should be granted accordingly.

(signed)

[X.Y.] *(add designation and business address)*

Solicitor for applicant

(insert date)

Form 47

Rule 3.39.6(3)

FORM OF EXCEPTIONAL DETENTION ORDER

Sheriff Court

..... 20 at (*insert time*)

(Court Ref. No.)

The sheriff, having considered an application made under section 44(3) of the Public Health etc. (Scotland) Act 2008 (“the Act”) *[and productions lodged therewith], and being satisfied as to the matters mentioned in section 45(2) of the Act,

1. Makes an exceptional detention order in terms of section 45(1) of the Act authorising the continued detention of (*insert details of the person as given in the application*) at (*insert name and address of hospital*) for (*insert period of detention*).

Further (*insert any authorisation for disinfection/disinfestation/decontamination*), and

2. Directs notification of this order (*insert details of method and timing of notice*) to (*the person to whom the order applies*)

*and (*the name and designation of any person to whom an explanation was given under section 31(5) of the Act*)

*and (*insert the name and designation of any other person whom the sheriff considers appropriate*).

**Delete as appropriate*

(*signed*)

Sheriff

Form 48

Rule 3.39.7(1)

FORM OF APPLICATION FOR EXTENSION OF A QUARANTINE ORDER,
SHORT TERM DETENTION ORDER OR EXCEPTIONAL DETENTION
ORDER UNDER SECTION 49 OF THE PUBLIC HEALTH ETC. (SCOTLAND)
ACT 2008

SHERIFFDOM OF (*insert name of sheriffdom*)

AT (*insert place of sheriff court*)

[A.B.] (*design health board*), Applicant

Order sought from the court

**Delete as appropriate*

The applicant applies to the court to extend for a period of (*insert period*):

**the quarantine order granted on (insert date) in respect of (insert name, address and date of birth of the person in respect of whom the order was granted) (“the person”) OR*

**the short term detention order granted on (insert date) in respect of (insert name, address and date of birth of the person) (“the person”) OR*

**the exceptional detention order granted on (insert date) in respect of (insert name, address and date of birth of the person) (“the person”).*

Statement

**Delete as appropriate*

1. This application is made pursuant to section 49 of the Public Health etc. (Scotland) Act 2008.
2. The person is presently **quarantined/*detained* in hospital within the applicant’s area by virtue of **a quarantine order/*a short term detention order/*an exceptional detention order* granted on (*insert date*) which expires on (*insert date*). This court accordingly has jurisdiction.
3. **The person is aged 16 years or over.*

OR

**The person is under 16. The parent or other person who has day-to-day care or control of the person is (insert name, address and relationship to the person).*

4. The applicant attaches to this application a certificate signed by a health board competent person which indicates that the competent person is satisfied as to the following matters:

**[in relation to a proposed extension of a quarantine order] That it is known, or there are reasonable grounds to suspect, that the person—*

- * (i) has an infectious disease;
- * (ii) has been exposed to an organism which causes an infectious disease;
- * (iii) is contaminated; or
- * (iv) has been exposed to a contaminant,

AND that as a result there is or may be significant risk to public health,

AND that it is necessary, to avoid or minimise that risk, for the person to continue to be quarantined.

OR

**[in relation to a proposed extension of a short term detention order or an exceptional detention order]* That the person—

- * (i) has an infectious disease; or
- * (ii) is contaminated,

AND that as a result there is significant risk to public health,

AND that it is necessary, to avoid or minimise that risk, for the person to continue to be detained in hospital.

5. The court is asked to extend the order for a period of *(insert period)* from *(insert date from which the order is to commence)*.

***6.** An extension of the quarantine order, as sought, will not result in the person being quarantined for a continuous period exceeding 12 weeks.

OR

***6** An extension of the short term detention order, as sought, will not result in the person being detained in hospital for a continuous period exceeding 12 weeks.

OR

***6** An extension of the exceptional detention order, as sought, will not result in the person being detained in hospital for a continuous period exceeding 12 months.

7. In the circumstances narrated the applicant is entitled to the order sought and it should be granted accordingly.

(signed)

[X.Y.] (add designation and business address)

Solicitor for applicant

(insert date)

Form 49

Rule 3.39.7(3)

FORM OF ORDER EXTENDING A QUARANTINE ORDER, SHORT TERM
DETENTION ORDER OR EXCEPTIONAL DETENTION ORDER

Sheriff Court

..... 20 at (*insert time*)

(Court Ref. No.)

The sheriff, having considered an application made under section 49(2) of the Public Health etc. (Scotland) Act 2008 (“the Act”) and productions lodged therewith, and being satisfied as to the matters mentioned in section 49(6) of the Act,

1. Makes an order in terms of section 49(5) of the Act extending *the quarantine order/*the short term detention order/*the exceptional detention order which was granted in respect of (*insert details of the person as given in the application*) on (*insert date*) for a period of (*insert period*) and

2. Directs notification of this order (*insert details of method and timing of notice*) to (*the person to whom the order applies*)

*and (*the name and designation of any person to whom an explanation was given under section 31(5) of the Act*)

*and (*insert the name and designation of any other person whom the sheriff considers appropriate*).

**Delete as appropriate*

(*signed*)

Sheriff

Form 50

Rule 3.39.8(1)

FORM OF APPLICATION FOR MODIFICATION OF A QUARANTINE ORDER, SHORT TERM DETENTION ORDER OR EXCEPTIONAL DETENTION ORDER UNDER SECTION 51 OF THE PUBLIC HEALTH ETC. (SCOTLAND) ACT 2008

SHERIFFDOM OF *(insert name of sheriffdom)*

AT *(insert place of sheriff court)*

[A.B.] *(design health board)*, Applicant

Order sought from the court

**Delete as appropriate*

The applicant applies to the court to modify:

**the quarantine order granted on (insert date) in respect of (insert name, address and date of birth of the person in respect of whom the order was granted) (“the person”) OR*

**the short term detention order granted on (insert date) in respect of (insert name, address and date of birth of the person) (“the person”) OR*

**the exceptional detention order granted on (insert date) in respect of (insert name, address and date of birth of the person) (“the person”)*

by (specify details of the modification sought).

Statement

**Delete as appropriate*

1. This application is made pursuant to sections 50 and 51 of the Public Health etc. (Scotland) Act 2008.
2. The person is presently **quarantined/*detained* in hospital within the applicant’s area by virtue of **a quarantine order/*a short term detention order/*an exceptional detention order granted on (insert date) which expires on (insert date)*. This court accordingly has jurisdiction.
3. **The person is aged 16 years or over.*

OR

**The person is under 16. The parent or other person who has day-to-day care or control of the person is (insert name, address and relationship to the person).*

4. The applicant attaches to this application a certificate signed by a health board competent person which indicates that the competent person is satisfied as to the following matters:

**[in relation to a proposed modification of a quarantine order] That it is known, or there are reasonable grounds to suspect, that the person—*

- * (i) has an infectious disease;
- * (ii) has been exposed to an organism which causes an infectious disease;
- * (iii) is contaminated; or
- * (iv) has been exposed to a contaminant,

AND that as a result there is or may be significant risk to public health,

AND that it is necessary, to avoid or minimise that risk, for the person to continue to be quarantined.

OR

**[in relation to a proposed modification of a short term detention order or an exceptional detention order]* That the person—

- * (i) has an infectious disease; or
- * (ii) is contaminated,

AND that as a result there is significant risk to public health

AND that it is necessary, to avoid or minimise that risk, for the person to continue to be detained in hospital.

5. The modification is sought for the following reasons (*here insert a brief statement of reasons*).
6. In the circumstances narrated the applicant is entitled to the order sought and it should be granted accordingly.

(signed)

[X.Y.] *(add designation and business address)*

Solicitor for applicant

(insert date)

Form 51

Rule 3.39.8(3)

FORM OF MODIFICATION OF A QUARANTINE ORDER, SHORT TERM
DETENTION ORDER OR EXCEPTIONAL DETENTION ORDER

Sheriff Court

..... 20 at [*insert time*]

(Court Ref. No.)

The sheriff, having considered an application made under section 50(2) of the Public Health etc. (Scotland) Act 2008 (“the Act”) *[and productions lodged therewith], and being satisfied as to the matters mentioned in section 51(2) of the Act,

1. Makes an order in terms of section 51(1) of the Act modifying *the quarantine order/*the short term detention order/*the exceptional detention order which was granted in respect of (*insert details of the person as given in the application*) on (*insert date*), by

(insert details of modification and, if applicable, name and designation of person considered appropriate under section 51(4)(a)(iv) of the Act).

2. Directs notification of this order (*insert details of method and timing of notice*) to (*the person to whom the order applies*)

*and (*the name and designation of any person to whom an explanation was given under section 31(5) of the Act*)

*and (*insert the name and designation of any other person whom the sheriff considers appropriate*).

**Delete as appropriate*

(signed)

Sheriff

Form 52

Rule 3.39.9(1)

Official use only

Court ref:

Date and time of receipt:

FORM OF APPLICATION FOR RECALL OF AN ORDER GRANTED IN THE ABSENCE OF THE PERSON TO WHOM IT APPLIES UNDER SECTION 59 OF THE PUBLIC HEALTH ETC. (SCOTLAND) ACT 2008

NOTES

This form should be used if you wish to apply to the sheriff for an order recalling a quarantine order OR a short term detention order OR an exceptional detention order which was made in the absence of the person to whom the order applies.

If you are the person to whom the order applies, you or your solicitor should complete and sign **PART A** and deliver it to the sheriff clerk of the sheriff court at which you wish to make your application.

If you are not the person to whom the order applies but instead are a person who has an interest in the welfare of the person to whom the order applies, you or your solicitor should complete and sign **PART B** and deliver it to the sheriff clerk of the sheriff court at which you wish to make your application.

Your application **MUST** be received by the sheriff clerk before the expiry of the period of 72 hours beginning with the time at which the order which you wish to be recalled was notified to you (or, as the case may be, the person to whom the order applies).

You should note that, despite the making of your application, the order which you wish recalled will **REMAIN IN FORCE** unless and until it is revoked by the sheriff.

Before determining your application the sheriff must give you and various other parties (who are specified in section 59(7) of the Act) the opportunity of making representations (whether orally or in writing) and of leading, or producing, evidence.

IF YOU ARE UNCERTAIN WHAT ACTION TO TAKE you should consult a solicitor. You may be entitled to legal aid depending on your financial circumstances, and you can get information about legal aid from a solicitor. You may also obtain advice from any Citizens Advice Bureau or other advice agency.

PART A

Sheriff Court
(Insert name of court)

1.

Details of applicant
(Insert full name, address and telephone number and, if available, e-mail address and fax number)

2.

Type of order you wish the sheriff to recall
(Tick as appropriate)

3. Quarantine Order
Short Term Detention Order
Exceptional Detention Order

Date of order
(Insert date of order you wish the sheriff to recall)

4.

Sheriff Court at which the order was made, if it was not the court specified in box 1
(Insert name of court)

5.

If available, a copy of the order which you wish the sheriff to recall should be attached to this application.

Date and time at which the order was notified to you
(Insert date and exact time of day)

6.

I ask the sheriff to recall the order specified in boxes 3 and 4 on the following grounds:

(State why you wish the order to be recalled. If necessary, continue on a separate sheet of paper):

Signed:

Date:

(A solicitor should add his or her name and contact details)

PART B

Sheriff Court
(Insert name of court)

1.

Details of applicant
(Insert full name, address and telephone number
and, if available, e-mail address and fax
number)

2.

Type of order you wish the
sheriff to recall
(Tick the appropriate box)

3. Quarantine Order
Short Term Detention Order
Exceptional Detention Order

Date of order
(Insert date of order you wish the
sheriff to recall)

4.

Sheriff Court at which the order was made, if it
was not the court specified in box 1
(Insert name of court)

5.

Details of person to whom the order applies
(Insert name, address and telephone number
and, if available, e-mail address and fax
number)

6.

If available, a copy of the order which you wish the sheriff to recall should be attached to this
application.

Date and time at which the order
was notified to the person named in box 6
(Insert date and exact time of day)

7.

I have an interest in the welfare of the person named in box 6 for the following reasons:

(State why you have an interest in the welfare of this person. If necessary, continue on a separate
sheet of paper):

I ask the sheriff to recall the order specified in boxes 3 and 4 on the following grounds:

(State why you wish the order to be recalled. If necessary, continue on a separate sheet of paper):

Signed:

Date:

(A solicitor should add his or her name and contact details)

Form 53

Rule 3.39.9(3)

FORM OF ORDER RECALLING A QUARANTINE ORDER, SHORT TERM
DETENTION ORDER OR EXCEPTIONAL DETENTION ORDER

Sheriff Court

..... 20

(Court Ref. No.)

The sheriff, having considered an application made under section 59(2) of the Public Health etc. (Scotland) Act 2008 for recall of *the quarantine order/*the short term detention order/*the exceptional detention order which was granted in respect of (*insert details of the person as given in the application*) on (*insert date*),

Refuses the application and Confirms the said order

OR

*Grants the application and Revokes the said order,

And Directs notification of this order (*insert details of method and timing of notice*) to *(*enter details of any other person whom the sheriff considers appropriate*).

**Delete as appropriate*

(*signed*)

Sheriff

Form 54

Rule 3.39.12(1)

Official use only Court ref: Date and time of receipt:

FORM OF NOTE OF APPEAL UNDER SECTION 61 OF THE PUBLIC HEALTH ETC. (SCOTLAND) ACT 2008

NOTES

This form should be used if you wish to appeal to the sheriff under section 61 of the Public Health etc. (Scotland) Act 2008 in relation to an exclusion order OR a restriction order. A copy of the section is set out below.

If you are the person to whom the order applies, you or your solicitor should complete and sign **PART A** and deliver it to the sheriff clerk of the sheriff court at which you wish to appeal.

If you are not the person to whom the order applies but instead are a person who has an interest in the welfare of the person to whom the order applies, you or your solicitor should complete and sign **PART B** and deliver it to the sheriff clerk of the sheriff court at which you wish to appeal.

The form **MUST** be received by the sheriff clerk before the expiry of 14 days beginning with the day on which the order, modification or, as the case may be, decision against which you wish to appeal was made.

IF YOU ARE UNCERTAIN WHAT ACTION TO TAKE you should consult a solicitor. You may be entitled to legal aid depending on your financial circumstances, and you can get information about legal aid from a solicitor. You may also obtain advice from any Citizens Advice Bureau or other advice agency.

61 Appeal against exclusion orders and restriction orders

- (1) This section applies where a person is subject to—
 - (a) an exclusion order; or
 - (b) a restriction order.
- (2) A person mentioned in subsection (3) may appeal to the sheriff against—
 - (a) the making of the order;
 - (b) any conditions imposed by the order;
 - (c) any modification of the order under section 48(2); or
 - (d) a decision of a health board competent person under section 52(4) or 53(3) not to revoke the order.
- (3) The person referred to in subsection (2) is—
 - (a) the person in relation to whom the order applies; or
 - (b) any person who has an interest in the welfare of such a person.
- (4) An appeal under this section must be made before the expiry of the period of 14 days beginning with the day on which the order, modification or, as the case may be, decision appealed against is made.
- (5) On an appeal under this section, the sheriff may—
 - (a) confirm the order appealed against;
 - (b) modify the order;
 - (c) revoke the order;
 - (d) confirm the decision appealed against;
 - (e) quash that decision;
 - (f) make such other order as the sheriff considers appropriate.
- (6) In subsection (5)(b), “modify” is to be construed in accordance with section 48.

PART A

Sheriff Court
(Insert name of court)

1.

Details of appellant
(Insert full name, address and telephone number and, if available, e-mail address and fax number)

2.

Type of order
(Tick as appropriate to indicate what type of order the appeal is about)

3. Exclusion Order
Restriction Order

Date of order
(Insert date of order indicated in box 3)

4.

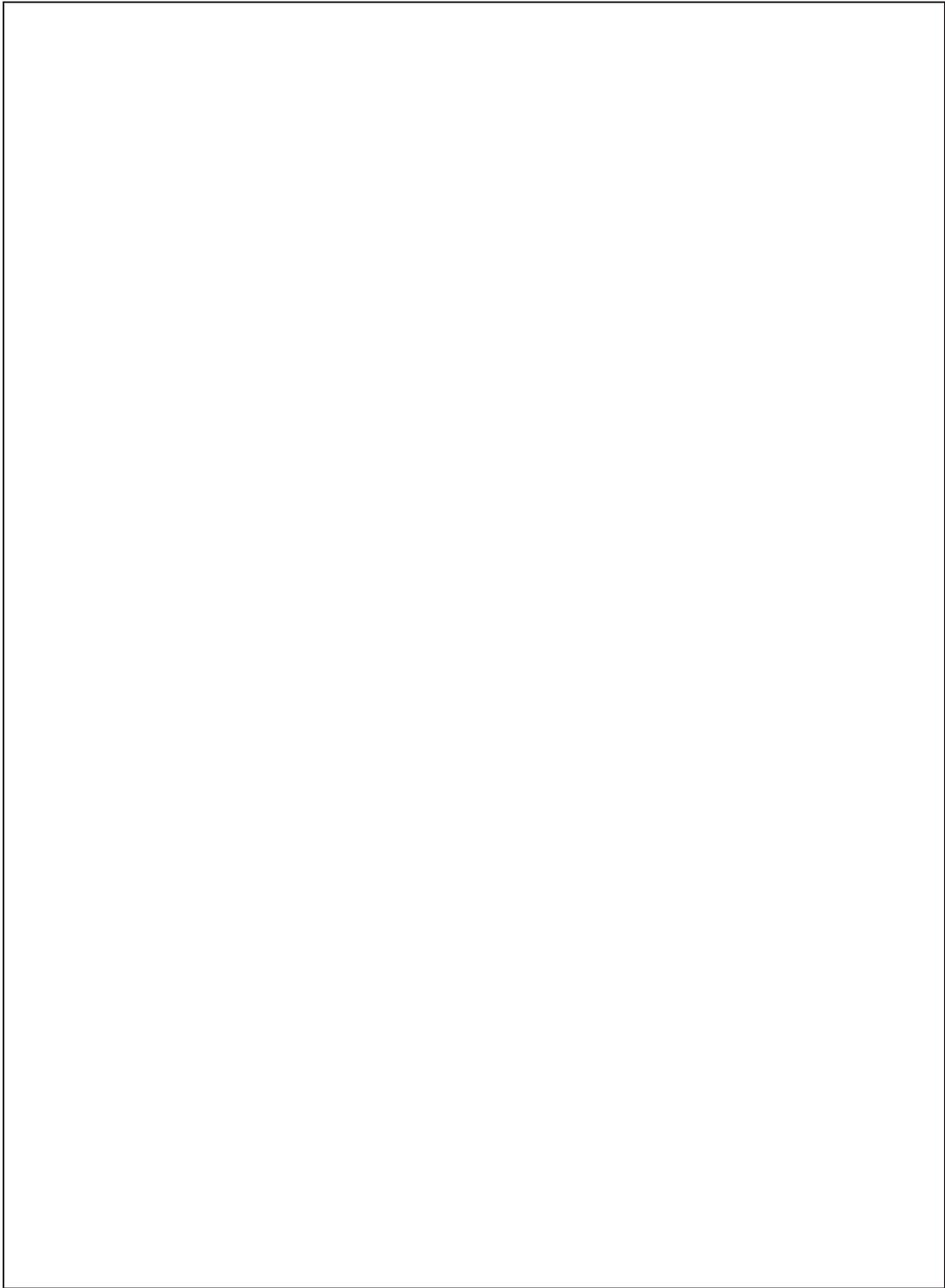
Name and address of person who made the order
(Insert name and address. You should find this on the order)

5.

If available, a copy of the order specified in boxes 3 and 4 should be attached to this application.

I appeal to the sheriff on the following grounds:

(State here with reasons
(i) what it is about the order that you wish to appeal. You should specify at least one of the options given in section 61(2).
(ii) what it is that you want the sheriff to do. You should specify one of the options given in section 61(5). If you choose the option given in section 61(5)(f) you should specify what order you wish the sheriff to make.
If necessary, continue on a separate sheet of paper)



Signed:

Date:

(A solicitor should add his or her name and contact details)

PART B

Sheriff Court
(Insert name of court)

1.

Details of appellant
(Insert full name, address and telephone number and, if available, e-mail address and fax number)

2.

Type of order
(Tick as appropriate to indicate what type of order the appeal is about)

3. Exclusion Order
Restriction Order

Date of order
(Insert date of order indicated in box 3)

4.

Name and address of person who made the order
(Insert name and address. You should find this on the order)

5.

Details of person to whom the order applies
(Insert full name, address and telephone number and, if available, e-mail address and fax number)

6.

If available, a copy of the order specified in boxes 3 and 4 should be attached to this application.

I have an interest in the welfare of the person named in box 6 for the following reasons:

(State why you have an interest in the welfare of this person. If necessary, continue on a separate sheet of paper):

I appeal to the sheriff on the following grounds:

(State here with reasons

(i) what it is about the order that you wish to appeal. You should specify at least one of the options given in section 61(2).

(ii) what it is that you want the sheriff to do. You should specify one of the options given in section 61(5). If you choose the option given in section 61(5)(f) you should specify what order you wish the sheriff to make.

If necessary, continue on a separate sheet of paper)

Signed:

Date:

(A solicitor should add his or her name and contact details)

Form 55

Rule 3.39.13(1)

FORM OF APPLICATION FOR WARRANT TO ENTER PREMISES AND TAKE STEPS UNDER SECTION 78 OF THE PUBLIC HEALTH ETC. (SCOTLAND) ACT 2008

SHERIFFDOM OF (*insert name of sheriffdom*)

AT (*insert place of sheriff court*)

[A.B.] (*design and state address*), Applicant

Order sought from the court

The applicant applies to the court to grant warrant to (*insert name*), an officer of the local authority

1. to enter the premises at (*insert address of premises to which entry is sought*).
2. to take with him any other person he may authorise and, if he has reasonable cause to expect any serious obstruction in obtaining access, a constable.
3. to direct that those premises (or any part of them) are, or any thing in or on them is to be left undisturbed (whether generally or in particular respects) for so long as the officer considers appropriate.
4. to take any step mentioned in section 73(2) of the Public Health etc. (Scotland) Act 2008 (“the Act”) or to remove any thing from the premises for the purpose of taking any such step at any other place.

Statement

**Delete as appropriate*

1. This application is made pursuant to section 78 of the Act.
2. The applicant is a local authority and the said officer is an authorised officer within the meaning give in section 73(8) of the Act.
3. The said premises **are/*are* not a dwellinghouse within the meaning given in section 26 of the Act.
4. The said premises are within the jurisdiction of this court.
5. The applicant considers it necessary that the authorised officer should exercise the powers of entry and take the other steps mentioned in section 73(2) of the Act (*insert here a brief statement of reasons*).
- *6.* The authorised officer

**has been refused entry to the said premises, or*

*reasonably anticipates that entry will be refused.

OR

***6** The said premises are premises which the authorised officer is entitled to enter and they are unoccupied.

OR

***6** The said premises are premises which the authorised officer is entitled to enter and the occupier thereof is temporarily absent and there is urgency because (*here state briefly why there is urgency*).

OR

***6** The authorised officer

*has been prevented from taking any steps which he is entitled to take under Part 5 of the Act, or

*reasonably anticipates being prevented from taking any steps that he is entitled to take under Part 5 of the Act.

***7** [*If the said premises are a dwellinghouse*] The authorised officer has in terms of section 77(2) of the Act given 48 hours notice of the proposed entry to a person who appears to be the occupier of the dwellinghouse and the period of notice has expired.

8. In the circumstances narrated the applicant is entitled to the warrant sought and it should be granted accordingly.

(signed)

[X.Y.] (*add designation and business address*)

Solicitor for applicant

(insert date)

Form 56

Rule 3.39.13(2)

FORM OF WARRANT TO ENTER PREMISES AND TAKE STEPS UNDER
PART 5 OF THE PUBLIC HEALTH ETC. (SCOTLAND) ACT 2008

Sheriff Court

..... 20

(Court Ref. No.)

**Delete as appropriate*

The sheriff, having considered an application made under section 78 of the Public Health etc. (Scotland) Act 2008 (“the Act”) *[and any productions lodged therewith], [**and (where the premises referred to below are a dwellinghouse)*] being satisfied that due notice has been given under section 77(2) of the Act and has expired],

Grants warrant authorising the authorised person, (*insert name*):

- (a) to enter the premises at (*insert address*)
- (b) on entering the premises referred to at paragraph (a), to take any other person authorised by him and, if he has reasonable cause to expect any serious obstruction in obtaining access, a constable; and
- (c) to direct that:
 - (i) those premises (or any part of them) are; or
 - (ii) any thing in or on those premises is,to be left undisturbed (whether generally or in particular respects) for so long as he considers appropriate;
- (d) to take any steps mentioned in section 73(2) of the Act; and
- (e) to remove any thing from the premises for the purpose of taking any such step at any other place.

(*signed*)

Sheriff

Form 57

Rule 3.39.14(1)

FORM OF APPLICATION FOR AN ORDER FOR DISPOSAL OF A BODY UNDER SECTION 93 OF THE PUBLIC HEALTH ETC. (SCOTLAND) ACT 2008

SHERIFFDOM OF (*insert name of sheriffdom*)

AT (*insert place of sheriff court*)

[A.B.] (*design local authority*), Applicant

Order sought from the court

**Delete as appropriate*

*The applicant applies to the court to make an order authorising the applicant to remove the body of (*insert name and date of birth of deceased person and address of premises in which the body is being retained*) to a mortuary or other similar premises and to dispose of that body before the expiry of (*insert period sought*).

OR

*The applicant applies to the court to make an order authorising the applicant to dispose of the body of (*insert name and date of birth of deceased person and address of premises in which the body is being retained*) as soon as reasonably practicable.

Statement

**Delete as appropriate*

1. This application is made pursuant to section 93 of the Public Health etc. (Scotland) Act 2008.
2. The applicant's area falls within the jurisdiction of the court. The court accordingly has jurisdiction.
3. The body of the said (*insert details of deceased person*) is being retained in (*insert name and address of premises*).
4. The applicant is a local authority in whose area the said premises are situated.
5. The applicant considers that the appropriate arrangements have not been made for the disposal of the said body.
6. The applicant is satisfied that as a result there is a significant risk to public health and it is necessary, to avoid or minimise that risk, for the body to be appropriately disposed of.
- *7 The applicant considers that the risk to public health is such that it is necessary for the body to be disposed of immediately because (*insert here brief reasons why immediate disposal of the body is sought*).

8. The applicant attaches to this application a certificate signed by a local authority competent person which indicates that the competent person is satisfied as to the matters mentioned in statements 3, 4, 5 and 6.
9. In the circumstances narrated the applicant is entitled to the order sought and it should be granted accordingly.

(signed)

[X.Y.] *(add designation and business address)*

Solicitor for applicant

(insert date)

Form 58

Rule 3.39.14(2)

FORM OF ORDER FOR DISPOSAL OF A BODY

Sheriff Court

..... 20

(Court Ref. No.)

**Delete as appropriate*

The sheriff, having considered an application made under section 93 of the Public Health etc. (Scotland) Act 2008 and any productions lodged,

*Being satisfied that there is a significant risk to public health, makes an order authorising the applicant to remove the body of (*insert details of deceased person*) to a mortuary or other similar premises and to dispose of that body before the expiry of (*insert period sought*).

OR

*Being satisfied that the risk to public health is such that it is necessary for the body of (*insert details of deceased person*) to be disposed of immediately, makes an order authorising the applicant to dispose of the body as soon as reasonably practicable.

(*signed*)

Sheriff

EXPLANATORY NOTE

(This note is not part of the Act of Sederunt)

This Act of Sederunt amends the Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) 1999 by inserting a new Part XXXVIII into Chapter 3 of those Rules, relating to applications and appeals to the sheriff for various warrants and orders under Parts 3, 4, 5 and 6 of the Public Health etc. (Scotland) Act 2008.

Rule 3.39.2 and Forms 36 and 37 prescribe forms for applying for, and granting, a warrant for a public health investigation under section 27(2) of the Act.

Rule 3.39.3 and Forms 38 and 39 prescribe forms for applying for, and granting, orders for a medical examination under section 34(1) of the Act. Rule 3.39.3 also makes provision in relation to intimation of such an application and notification of such an order.

Rule 3.39.4 and Forms 40 and 41 prescribe forms for applying for, and granting, a quarantine order under section 40(1) of the Act. Rule 3.39.4 also makes provision in relation to intimation of such an application and notification of such an order.

Rule 3.39.5 and Forms 42, 43, 44 and 45 prescribe forms for applying for, and granting, a short term detention order under section 42(1) of the Act. Rule 3.39.5 also makes provision in relation to intimation of such an application and notification of such an order.

Rule 3.39.6 and Forms 46 and 47 prescribe forms for applying for, and granting, an exceptional detention order under section 45(1) of the Act. Rule 3.39.6 also makes provision in relation to intimation of such an application and notification of such an order.

Rule 3.39.7 and Forms 48 and 49 prescribe forms for applying for, and granting, an order extending a quarantine order, a short term detention order or an exceptional detention order under section 49(5) of the Act. Rule 3.39.7 also makes provision in relation to intimation of such an application and notification of such an order.

Rule 3.39.8 and Forms 50 and 51 prescribe forms for applying for, and granting, an order modifying a quarantine order, a short term detention order or an exceptional detention order under section 51(1) of the Act. Rule 3.39.8 also makes provision in relation to intimation of such an application and notification of such an order.

Rule 3.39.9 and Forms 52 and 53 prescribe forms for applying for, and granting, the recall of a quarantine order, a short term detention order or an exceptional detention order under section 59 of the Act.

Rule 3.39.10 makes provision in relation to intimation of applications relating to persons under 16.

Rule 3.39.11 provides that where a quarantine order, short term detention order or exceptional detention order is intimated on the person to whom the order applies, a Form 52 (form of application for recall) must be delivered along with the order.

Rule 3.39.12 includes procedural requirements in relation to appeals to a sheriff against an exclusion order or a restriction order made under the Act.

Rule 3.39.13 and Forms 55 and 56 prescribe forms for applying for, and granting, a warrant for entry and to take steps under section 78 of the Act.

Rule 3.39.14 and Forms 57 and 58 prescribe forms for applying for, and granting, an order for the disposal of a body by a local authority under section 93 of the Act.

Rule 3.39.15 provides that an application for the appointment of a single arbiter to determine a dispute in relation to compensation may be made in the form of a letter addressed to the sheriff clerk.

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