

PUBLIC HEALTH ETC. (SCOTLAND) ACT 2008

EXPLANATORY NOTES

THE ACT – OVERVIEW

Part 10

General and Miscellaneous

General and miscellaneous

Section 122 Regulations and orders

230. This section sets out the procedure under which the Scottish Ministers can exercise powers which the Act gives them to make subordinate legislation. All regulations and orders are to be made by statutory instrument. Scottish Ministers must, as far as is reasonably practicable, consult appropriate persons before making regulations under this Act.
231. Most regulations under the Act are to be subject to the Scottish Parliament's negative resolution procedure. The exceptions are regulations under section 25(3) (conferring powers on public health investigators), section 94(1) (giving effect to the International Health Regulations and other international agreements), section 99(1) (regarding the application of Part 8 to the medical use of sunbeds) and section 105(11) (in relation to fixed penalties under Part 8) which will be subject to the Scottish Parliament's affirmative resolution procedure.
232. Where regulations under section 25(3) and 94(1) need to be made urgently, they need not be subject to affirmative procedure and can come into effect immediately. However, such "emergency regulations" must be laid before the Scottish Parliament and will cease to have effect after 28 days of being made unless they have been approved by a resolution of the Parliament before the expiry of this period. The commencement order-making power in section 128 is subject to no parliamentary procedure.