

PUBLIC HEALTH ETC. (SCOTLAND) ACT 2008

EXPLANATORY NOTES

THE ACT – OVERVIEW

Part 2

Notifiable Diseases, Notifiable Organisms and Health Risk States

Notifiable diseases and organisms

Section 12 Lists of notifiable diseases and notifiable organisms

24. This section defines “notifiable disease” and “notifiable organism” as a disease listed in Part 1 or an organism listed in Part 2 of schedule 1 respectively. (2) It states that the Scottish Ministers may amend the lists in schedule 1 by regulations, including by adding or removing items from the list. A disease or organism may be added only if the Scottish Ministers are satisfied that it is likely to give rise to a significant risk to public health and having regard to whether the disease is serious (or in the case of an organism, whether the organism would cause a serious disease) and easily transmissible through casual contact.

Duties to notify

Section 13 Notifiable diseases: duties on registered medical practitioners

25. This section places a duty on a registered medical practitioner who has reasonable grounds to suspect that a patient has a notifiable disease, to notify the health board of that area in writing not later than 3 days after forming the suspicion. The notification must include the patient’s name, address and postcode, the patient’s occupation, the name, address and postcode of the patient’s place of work or education (if considered relevant by the practitioner), the patient’s sex, the patient’s date of birth, the disease which the patient has and the patient’s NHS identifier. The NHS identifier means the community health index number or, where that is not known, the NHS identification number. Where both are unknown, any other number or indicator used from time to time to identify a patient individually will suffice.
26. A registered medical practitioner who has reasonable grounds to suspect a notifiable disease and who considers that the case is urgent must orally notify the health board as soon as possible. The registered medical practitioner must have regard to the following factors when considering whether a case is urgent or not: the nature of the disease, the ease of transmission of that disease, the patient’s circumstances (such as the patient’s age, sex and state of health), and any guidance issued by the Scottish Ministers.
27. A registered medical practitioner does not need to notify if there are reasonable grounds to believe that another registered medical practitioner has complied with the notification requirement under this section or section 14 in respect of the patient.

Section 14 Health risk states: duties on registered medical practitioners

28. This section places a duty on a registered medical practitioner who has reasonable grounds to suspect that a patient has been exposed to a health risk state to notify the health board of that area in writing no later than 3 days after forming the suspicion. The notification must include the patient's name, address and postcode, the patient's occupation, the name, address and postcode of the patient's place of work or education (if considered relevant by the practitioner), the patient's sex, the patient's date of birth, the health risk state to which the patient has been exposed and the patient's NHS identifier.
29. A registered medical practitioner who has reasonable grounds to suspect that a patient has been exposed to a health risk state and considers that the case is urgent must orally notify the health board as soon as possible. In determining whether the case is urgent, the practitioner must have regard to the nature of the health risk state, the nature of the exposure to that state, the patient's circumstances (such as the patient's age, sex and state of health) and any guidance issued by the Scottish Ministers. A registered medical practitioner does not need to notify if there are reasonable grounds to believe that another registered medical practitioner has complied with this section or section 13 in respect of the patient.
30. A "health risk state" is defined as meaning a highly pathogenic infection (i.e. an infection highly likely to cause a serious disease), or exposure to any contamination, poison or other hazard that is a significant risk to public health. A patient's exposure to a health risk state means either physical contact with or contamination by a health risk state or physical contact with or contamination by a person who, or an object which, has been in physical contact with, or been contaminated by, a health risk state.

Section 15 Notifiable diseases and health risk states: duties on health boards

31. This section places a duty on (1)(a) a health board which receives notification of a disease or health risk state (under section 13 or 14) from a registered medical practitioner either orally or in writing, relating to a patient who usually resides within that health board's area, to send a return in writing to the Common Services Agency. The return must contain the following information for each patient, in so far as it is known to the board: postcode, occupation, sex, date of birth, the suspected disease or health risk state to which the patient has been exposed, and the patient's NHS identifier. The health board's return will not include the patient's name or address. (2) The return is to be sent no later than the end of the week in which the information is received; or, if this is not practicable, as soon as practicable thereafter.
32. Subsection (4) states that (4) where the notification received by a health board relates to a person who does not usually reside in that health board's area, the health board must transmit the patient's information to the health board for the area in which the person usually resides. Subsection (5) sets out that when that other health board receives the information, it must send a return in writing to the Common Services Agency no later than the end of the week following receipt of the information, or, if that is not practicable, as soon as practicable thereafter.

Section 16 Notifiable organisms: duties on directors of diagnostic laboratories

33. This section places a duty on the director of a diagnostic laboratory, (1) where the laboratory identifies a notifiable organism, to (b) provide written confirmation of the organism to the relevant health board and the Common Services Agency, no later than 10 days after identification. If the director of the diagnostic laboratory considers that the case is urgent, the director must orally notify the relevant health board as soon as possible. In determining whether a case is urgent, the director must have regard to the nature of the organism, the nature of the disease which that organism causes, the ease of transmission of that disease or organism, the patient's circumstances (such as the

patient's age, sex and state of health, where known), and any guidance issued by the Scottish Ministers.

34. For the purposes of subsection (1), a diagnostic laboratory identifies a notifiable organism where the laboratory identifies the organism itself or the organism is identified by another laboratory under an arrangement with that diagnostic laboratory. This will include identification of organisms by laboratories outwith Scotland under an arrangement with a diagnostic laboratory in Scotland. In these cases, the day of identification for the purposes of notification will be the day on which the first diagnostic laboratory becomes aware of the identification by the other laboratory with which it has the arrangement.
35. The "relevant health board" in this section means the health board in whose area the diagnostic laboratory is situated. Where a health board receives notification from the director of a diagnostic laboratory and the information relates to a person who does not usually reside in that board's area, the information must be transmitted to the health board for the area in which the person usually resides.
36. This section defines the director of a diagnostic laboratory as a clinical microbiologist, consultant pathologist or other registered medical practitioner or other person in charge of a diagnostic laboratory or to whom the function of making a notification has been delegated, thus providing that the role of director of a diagnostic laboratory can be fulfilled by a person with a non-medical background.

Offences

Section 17 Notifiable organisms: offences

37. This section states that it is an (1) offence for the director of a diagnostic laboratory to fail without reasonable excuse to comply with the duty of notification. Where the director of a diagnostic laboratory commits an offence and is employed by a body corporate, the body corporate also commits the offence. In proceedings for an offence under this section, it is a defence for the accused director of a diagnostic laboratory to prove that all due diligence was exercised and all reasonable steps taken to avoid committing the offence. For the accused body corporate, it is a defence to prove that the body corporate (or its employee or agent) exercised all due diligence and took all reasonable steps to avoid committing the offence.

Supplementary provision

Section 18 Electronic notification

38. This allows a registered medical practitioner, a health board or the director of a diagnostic laboratory to use electronic means (such as e-mail) (1) to satisfy the notification requirements. The electronic document must be capable of being reproduced in legible form. It is taken to be received on the day of transmission.

Section 19 Notifiable diseases etc.: further provision

39. This section allows the (1) Scottish Ministers to make provision, by regulations, (a) as to the way in which notification is to be made, including the way in which the information is to be provided and the manner in which the authenticity or integrity of any electronic communication may be established. The provision in regulations may include: the person by whom the information is to be provided; the person to whom it is to be provided; the nature of the information to be provided; the form and manner in which it is to be provided; and the time by which the information is to be provided. Regulations made under this section may modify any enactment, including this Act, and are to be made by negative procedure.