

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 44 Application where long term detention in hospital necessary

88. This section deals with applications by the health board to the sheriff for an “exceptional detention order”. A health board can make an application where a person is detained in hospital under an order granted under section 42 or 43 (a short term detention order) and the health board is satisfied that the criteria under which the short term detention order was granted continue to apply; it continues to be necessary for the person to be detained in hospital to avoid or minimise a significant risk to public health; and it is necessary for that person to be detained for a longer period than permitted under the short term detention order.
89. Subsection (4) states that the application must specify: the person to whom the order will apply; why the board considers it necessary for the person to continue to be detained in hospital and for a period longer than that permitted under a short term order; the hospital in which it is proposed to detain the person; the steps, if any, in section 46(2) which the health board considers it is necessary to take in respect of the person; 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 a competent person from a different health board to the one which made the original application, indicating satisfaction that the criteria for the making of the application have been met.