

PUBLIC HEALTH ETC. (SCOTLAND) ACT 2008

EXPLANATORY NOTES

THE ACT – OVERVIEW

Part 4

Public Health Functions of Health Boards

Variation and extension of orders

Section 48 Variation of exclusion and restriction orders

94. This section provides that, where a person is subject to an exclusion or restriction order, a competent person of the appropriate health board may, if considered appropriate, modify the order. In the case of an exclusion order, the order may be modified by varying the place or type of place from which the person is excluded. In the case of a restriction order, the order may be modified by varying the activity or type of activity which the person is prohibited from carrying on. The competent person may also impose conditions, where none had been imposed in the original orders, and modify any condition that had been imposed by adding, varying or removing a condition. If an order is varied, the competent person must notify the subject of the order and any person to whom it was notified of the changes made.

Section 49 Extension of quarantine and hospital detention orders

95. The section provides that where a person is subject to a quarantine order, a short term detention order or an exceptional detention order, the health board may apply to the sheriff for an extension to the order. The application must be made by the health board before the period specified in the current order expires. An application must include a certificate from a health board competent person in accordance with subsection (4).
96. Before granting an extension of the order, the sheriff must be satisfied that the criteria for the order still apply. If satisfied, the sheriff may grant, in the case of a quarantine or short term detention order, an extension for a further three weeks, up to a maximum continuous period of 12 weeks; or, in the case of an exceptional detention order, an order extending the order for a further period up to a maximum continuous period of 12 months. An order may be extended on more than one occasion.

Section 50 Application for variation of quarantine and hospital detention orders

97. This section provides that a health board, if it considers it appropriate, may apply to the sheriff for an order modifying a quarantine, short term detention or exceptional detention order.
98. Subsection (3) sets out what must be specified in such an application: the order which it is proposed to modify; the person to whom it applies; and the modification which it is proposed to make. An application must include a certificate from a health board competent person in accordance with subsection (4).

Section 51 Variation of quarantine and hospital detention orders

99. Subsection (1) provides that a sheriff may, if satisfied that the conditions for making a quarantine, short term detention or exceptional detention order continue to apply, make an order modifying the order to which the application relates. In the case of a quarantine order, the place in which the person is to be quarantined may be modified, and conditions may be added, varied or removed. In the case of a short term detention order or an exceptional detention order, the hospital in which the person is detained may be varied. In both cases, steps mentioned in section 46 which are authorised by the order may be added or removed. Orders modified under this section are to have effect from the time at which the order under subsection (1) is made.
100. Subsection (4) provides that where any modification varies the place in which a person is to be quarantined or, in the case of a hospital detention order, the hospital in which the person is to be detained, the order under this section authorises the removal of the person to that place or to the hospital by a constable, an officer of the health board, an officer of a local authority or any other person the sheriff considers appropriate, and authorises the quarantine or detention there.
101. Subsection (5) sets out that an order granted by the sheriff must specify the person to whom the order applies and the modification made. It must be notified to the person to whom the order applies, to any person to whom an explanation was given under section 31, and to any other person the sheriff considers appropriate.