



# Public Health etc. (Scotland) Act 2008

## 2008 asp 5

### PART 2

#### NOTIFIABLE DISEASES, NOTIFIABLE ORGANISMS AND HEALTH RISK STATES

##### *Notifiable diseases and organisms*

#### **12 Lists of notifiable diseases and notifiable organisms**

- (1) In this Part—
  - “notifiable disease” means a disease listed in Part 1 of schedule 1; and
  - “notifiable organism” means an organism listed in Part 2 of schedule 1.
- (2) The Scottish Ministers may by regulations amend a list in schedule 1 by—
  - (a) adding an item to the list;
  - (b) removing an item from the list;
  - (c) varying the description of an item in the list.
- (3) Regulations under subsection (2) may add a disease or organism to a list only if the Scottish Ministers are satisfied that the disease or organism is likely to give rise to a significant risk to public health.
- (4) The Scottish Ministers must, when considering whether a disease or organism is likely to give rise to such a risk, have regard—
  - (a) in the case of a disease, to—
    - (i) the seriousness of the disease; and
    - (ii) the ease of transmissibility through casual contact of the disease;
  - (b) in the case of an organism, to the seriousness and ease of transmissibility through casual contact of the disease which the organism would cause.

### *Duties to notify*

#### **13 Notifiable diseases: duties on registered medical practitioners**

- (1) This section applies where a registered medical practitioner has reasonable grounds to suspect that a patient whom the practitioner is attending has a notifiable disease.
- (2) The practitioner must, before the expiry of the period of 3 days beginning with the day on which the practitioner forms that suspicion, provide to the relevant health board, in writing, the information mentioned in subsection (6) in so far as it is known to the practitioner.
- (3) Without prejudice to subsection (2), if the practitioner considers that the case is urgent, the practitioner must, as soon as reasonably practicable, orally provide to the relevant health board—
  - (a) the information mentioned in subsection (6) in so far as it is known to the practitioner; and
  - (b) an explanation of why the practitioner considers the case is urgent.
- (4) In determining whether a case is urgent, the practitioner must have regard to—
  - (a) the nature of the suspected disease;
  - (b) the ease of transmission of that disease;
  - (c) the patient’s circumstances (including age, sex and health); and
  - (d) any guidance issued by the Scottish Ministers.
- (5) Subsections (2) and (3) do not apply if the practitioner believes on reasonable grounds that another registered medical practitioner—
  - (a) has complied with those subsections in respect of the patient; or
  - (b) has provided information in respect of the disease to the relevant health board under section 14(2) or (3).
- (6) The information referred to in subsections (2) and (3)(a) is—
  - (a) the patient’s name;
  - (b) the patient’s address and postcode;
  - (c) the patient’s occupation (if the practitioner considers that it is relevant);
  - (d) the name, address and postcode of the patient’s place of work or education (if the practitioner considers that it is relevant);
  - (e) the patient’s sex;
  - (f) the patient’s date of birth;
  - (g) the suspected disease; and
  - (h) the patient’s NHS identifier.
- (7) In this section and section 14, the “relevant health board” is the health board for the area in which the practitioner works.
- (8) In this Part, “NHS identifier” means—
  - (a) the patient’s—
    - (i) community health index number; or
    - (ii) where that number is not known, NHS identification number; or
  - (b) where neither of the numbers referred to in paragraph (a) is known, any other number or other indicator which from time to time may be used to identify a patient individually.

## 14 Health risk states: duties on registered medical practitioners

- (1) This section applies where a registered medical practitioner has reasonable grounds to suspect that a patient whom the practitioner is attending has been exposed to a health risk state.
- (2) The practitioner must, before the expiry of the period of 3 days beginning with the day on which the practitioner forms that suspicion, provide to the relevant health board, in writing, the information mentioned in subsection (6) in so far as it is known to the practitioner.
- (3) Without prejudice to subsection (2), if the practitioner considers that the case is urgent, the practitioner must, as soon as reasonably practicable, orally provide to the relevant health board—
  - (a) the information mentioned in subsection (6) in so far as it is known to the practitioner; and
  - (b) an explanation of why the practitioner considers the case is urgent.
- (4) In determining whether a case is urgent, the practitioner must have regard to—
  - (a) the nature of the suspected health risk state;
  - (b) the nature of the exposure to that state;
  - (c) the patient’s circumstances (including age, sex and health); and
  - (d) any guidance issued by the Scottish Ministers.
- (5) Subsections (2) and (3) do not apply if the practitioner believes on reasonable grounds that another registered medical practitioner—
  - (a) has complied with those subsections in respect of the patient; or
  - (b) has provided information in respect of the health risk state to the relevant health board under section 13(2) or (3).
- (6) The information referred to in subsections (2) and (3)(a) is—
  - (a) the patient’s name;
  - (b) the patient’s address and postcode;
  - (c) the patient’s occupation (if the practitioner considers that it is relevant);
  - (d) the name, address and postcode of the patient’s place of work or education (if the practitioner considers that it is relevant);
  - (e) the patient’s sex;
  - (f) the patient’s date of birth;
  - (g) the suspected health risk state; and
  - (h) the patient’s NHS identifier.
- (7) In this section and section 15, “health risk state” means—
  - (a) a highly pathogenic infection; or
  - (b) any—
    - (i) contamination;
    - (ii) poison; or
    - (iii) other hazard,which is a significant risk to public health.
- (8) In this section, references to a patient having been “exposed to a health risk state” are references to the patient—
  - (a) having been in physical contact with a health risk state;

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- (b) having been contaminated by a health risk state; or
- (c) having been in physical contact with or contaminated by—
  - (i) a person who; or
  - (ii) an object which,
 has been in physical contact with or contaminated by a health risk state.

## **15 Notifiable diseases and health risk states: duties on health boards**

- (1) Where—
- (a) a health board receives information under—
    - (i) section 13(2) or (3); or
    - (ii) section 14(2) or (3); and
  - (b) that information relates to a patient who usually resides within the area of that health board,
- that board must send a return, in writing, to the common services agency containing, in relation to each patient, the information mentioned in subsection (3) in so far as it is known to the board.
- (2) The return under subsection (1) is to be sent—
- (a) no later than the end of the week in which the information mentioned in subsection (1)(a) is received; or
  - (b) if it is not practicable to send the return by the end of that week, as soon as practicable afterwards.
- (3) The information referred to in subsection (1) is—
- (a) the patient’s postcode;
  - (b) the patient’s occupation;
  - (c) the patient’s sex;
  - (d) the patient’s date of birth;
  - (e) the—
    - (i) suspected disease; or
    - (ii) suspected health risk state; and
  - (f) the patient’s NHS identifier.
- (4) Where—
- (a) a health board receives information as mentioned in subsection (1)(a); and
  - (b) that information relates to a person who does not usually reside in the area of that health board,
- the board must without delay transmit the information to the health board for the area in which the person usually resides.
- (5) Where a health board receives information from another health board by virtue of subsection (4)—
- (a) the board must send a return, in writing, to the common services agency containing, in relation to each patient, the information mentioned in subsection (3) in so far as it is known to the board; and
  - (b) subsection (2) applies to a return sent under this subsection as it applies to a return sent under subsection (1) with the modification that, for the reference to subsection (1)(a), there is substituted a reference to subsection (4).

- (6) In subsection (2), “week” means a period of 7 days ending on Friday at the expiry of the normal working hours of the board’s principal office.

## **16 Notifiable organisms: duties on directors of diagnostic laboratories**

- (1) This section applies where a diagnostic laboratory identifies a notifiable organism.
- (2) The director of the laboratory must, before the expiry of the period of 10 days beginning with the day of identification, provide to the persons mentioned in subsection (5), in writing, the information mentioned in subsection (6) in so far as it is known to the director.
- (3) Without prejudice to subsection (2), if the director considers that the case is urgent, the director must, as soon as reasonably practicable, orally provide to the persons mentioned in subsection (5)—
- (a) the information mentioned in subsection (6) in so far as it is known to the director; and
  - (b) an explanation of why the director considers the case is urgent.
- (4) In determining whether a case is urgent, the director must have regard to—
- (a) the nature of the organism;
  - (b) the nature of the disease which that organism causes;
  - (c) the ease of transmission of that disease or organism;
  - (d) where known, the patient’s circumstances (including age, sex and health); and
  - (e) any guidance issued by the Scottish Ministers.
- (5) The persons referred to in subsections (2) and (3) are—
- (a) the health board in whose area the diagnostic laboratory is situated; and
  - (b) the common services agency.
- (6) The information referred to in subsections (2) and (3)(a) is—
- (a) the name of the person to whom the identification relates;
  - (b) the person’s address;
  - (c) the person’s sex;
  - (d) the person’s date of birth;
  - (e) the organism which has been identified; and
  - (f) the person’s NHS identifier.
- (7) Where—
- (a) a health board receives information under subsection (2) or (3); and
  - (b) that information relates to a person who does not usually reside in the area of that board,
- the board must without delay transmit that information to the health board for the area in which the person usually resides.
- (8) For the purposes of subsection (1), a diagnostic laboratory identifies a notifiable organism where—
- (a) the diagnostic laboratory identifies the organism; or
  - (b) the organism is identified by another laboratory under an arrangement with that diagnostic laboratory.

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- (9) Where subsection (8)(b) applies, the day of identification, for the purposes of subsection (2), is the day on which the diagnostic laboratory becomes aware of the identification by the other laboratory.
- (10) In this section and section 17—
- “diagnostic laboratory” means an institution (or facility within an institution) which is equipped with apparatus and reagents for the performance of diagnostic tests for human infections; and
- “director” of a diagnostic laboratory means—
- (a) the clinical microbiologist, consultant pathologist or other registered medical practitioner or other person in charge of a diagnostic laboratory; or
  - (b) any other person working in the diagnostic laboratory to whom the function of making a notification under this section has been delegated by the person mentioned in paragraph (a).

### *Offences*

#### **17 Notifiable organisms: offences**

- (1) It is an offence for the director of a diagnostic laboratory to fail without reasonable excuse to comply with section 16(2).
- (2) In proceedings for an offence under subsection (1), it is a defence for the director to prove that the director exercised all due diligence and took all reasonable steps to avoid committing the offence.
- (3) Where—
  - (a) the director of a diagnostic laboratory commits the offence mentioned in subsection (1); and
  - (b) the director is employed by a body corporate,
 the body corporate also commits an offence.
- (4) In proceedings for an offence under subsection (3), it is a defence for the body corporate to prove that the body corporate (or an employee or agent of the body corporate) exercised all due diligence and took all reasonable steps to avoid committing the offence.
- (5) In subsection (3)(b), “employed” includes engaged under a contract for services.

### *Supplementary provision*

#### **18 Electronic notification**

- (1) The requirement in sections 13(2), 14(2), 15(1) and (5) and 16(2) for information to be provided in writing may be satisfied by a document in electronic form—
  - (a) transmitted by electronic means; and
  - (b) capable of being reproduced in legible form.

- (2) For the purposes of sections 13(2), 14(2), 15(1) and (5) and 16(2), a document transmitted in accordance with subsection (1) is to be taken to be received on the day of transmission.

## **19 Notifiable diseases etc.: further provision**

- (1) The Scottish Ministers may, by regulations, make provision (or such further provision) as they consider appropriate—
- (a) as to the way in which information is to be provided under section 13, 14, 15 or 16, including—
    - (i) the person by whom it is to be provided;
    - (ii) the person to whom it is to be provided;
    - (iii) the nature of the information that is required to be provided;
    - (iv) the form and manner in which it is to be provided;
    - (v) the time by which it is to be provided;
  - (b) as to the manner in which the authenticity or integrity of any communication or data contained in an electronic communication made by virtue of section 18 may be established.
- (2) Regulations under subsection (1) may modify any enactment (including this Act).