



# Public Health etc. (Scotland) Act 2008

## 2008 asp 5

### PART 4

#### PUBLIC HEALTH FUNCTIONS OF HEALTH BOARDS

##### *Removal to and detention in hospital*

#### **42 Order for removal to and detention in hospital**

- (1) The sheriff may, if satisfied as to the matters mentioned in subsection (2), make an order authorising—
- (a) the removal of a person to hospital by—
    - (i) a constable;
    - (ii) an officer of the health board;
    - (iii) an officer of a local authority; or
    - (iv) any other person the sheriff considers appropriate;
  - (b) the detention of the person in hospital; and
  - (c) the taking in relation to the person of such of the steps mentioned in section 46(2) (if any) as the sheriff considers appropriate.
- (2) The matters referred to in subsection (1) are—
- (a) that the person—
    - (i) has an infectious disease; or
    - (ii) is contaminated;
  - (b) that as a result—
    - (i) there is a significant risk to public health; and
    - (ii) it is necessary, to avoid or minimise that risk, for the person to be admitted to and detained in hospital; and
  - (c) that—
    - (i) before the application under section 41(2)(a) was made, the health board gave an explanation under section 31(3) or (5); or
    - (ii) where no such explanation was given, it was not reasonably practicable to do so.

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*Changes to legislation: There are currently no known outstanding effects for the  
Public Health etc. (Scotland) Act 2008, Section 42. (See end of Document for details)*

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- (3) An order under subsection (1) has effect—
- (a) from the time at which it is made;
  - (b) for such period, not exceeding 3 weeks beginning with the day on which the order is made, as the sheriff considers appropriate.
- (4) An order under subsection (1) must—
- (a) specify—
    - (i) the person to whom it applies;
    - (ii) the hospital to which the person is to be taken (and in which the person is to be detained);
    - (iii) the period for which the person is to be detained in hospital; and
    - (iv) the steps mentioned in section 46(2) (if any) which may be taken in relation to the person; and
  - (b) be notified to—
    - (i) the person to whom it applies;
    - (ii) any person to whom an explanation was given under section 31(5);  
and
    - (iii) any other person the sheriff considers appropriate.
- (5) A person authorised under subsection (1)(a) to remove to hospital a person to whom an order under subsection (1) applies may enter any premises in which that person is present in order to execute the order.
- (6) The power of entry in subsection (5)—
- (a) may be exercised at any time; and
  - (b) includes power to use reasonable force.

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**Commencement Information**

**II** S. 42 in force at 1.10.2009 by S.S.I. 2009/319, art. 2(a), Sch. 1

**Changes to legislation:**

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