



Public Health etc. (Scotland) Act 2008

2008 asp 5

[^{F1}PART 5A

PUBLIC HEALTH PROTECTION MEASURES

Public health protection regulations

[^{F1}86E **Limits on use of power: regulations indirectly imposing restrictions or requirements**

- (1) Regulations under section 86A(1) may not enable the imposition of a restriction or requirement by virtue of section 86A(4) unless the regulations provide that a decision to impose such a restriction or requirement may only be taken if the person taking it considers, when taking the decision, that the restriction or requirement is proportionate to what is sought to be achieved by imposing it.
- (2) Regulations under section 86A(1) may not enable the imposition of a special restriction or requirement unless—
 - (a) the regulations are made in response to a serious and imminent threat to public health, or
 - (b) the imposition of the special restriction or requirement is expressed to be contingent on there being such a threat at the time when it is imposed.
- (3) For the purpose of this section, the regulations “enable the imposition of” a restriction or requirement if the restriction or requirement is imposed by virtue of a decision taken under the regulations by the Scottish Ministers, a local authority, a health board or other person.]

Textual Amendments

- F1** Pt. 5A inserted (1.9.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(asp 8\)](#), ss. 1(2), 59(1)

Changes to legislation:

There are currently no known outstanding effects for the Public Health etc. (Scotland) Act 2008, Section 86E.