
SCOTTISH STATUTORY INSTRUMENTS

2009 No. 320

**Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) Amendment
(Public Health etc. (Scotland) Act 2008) 2009**

Amendment of the Summary Application Rules: Public Health etc. (Scotland) Act 2008

2.—(1) The Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) 1999(1) is amended in accordance with subparagraph (2).

(2) After Part XXXVIII (Counter-Terrorism Act 2008)(2), insert—

“PART XXXIX

PUBLIC HEALTH ETC. (SCOTLAND) ACT 2008

Interpretation

3.39.1. In this Part—

“the Act” means the Public Health etc. (Scotland) Act 2008(3);

“an investigator” means a person appointed under section 21 of the Act;

“health board competent person” has the same meaning as in section 124 of the Act,

and words and expressions used in this Part and in the Act shall have the same meaning given in the Act.

Application for a public health investigation warrant

3.39.2.—(1) An application made by an investigator for a warrant under section 27(2) of the Act (public health investigation warrants) shall be in Form 36.

(2) Where such a warrant is granted by the sheriff it shall be in Form 37.

Application for an order for medical examination

3.39.3.—(1) An application made by a health board for an order under section 34(1) of the Act (order for medical examination) shall be in Form 38.

(2) On receipt of an application mentioned in paragraph (1), the sheriff may order intimation of the application to such persons, within such a timescale and by such method as he sees fit.

(3) Where an order for a medical examination is granted by the sheriff it shall be in Form 39.

(1) S.I. 1999/929, amended by S.S.I. 2000/18 and 387, 2001/142, 2002/7, 129, 130, 146 and 563, 2003/26, 27, 98, 261, 319, 346 and 556, 2004/197, 222, 334 and 455, 2005/61, 473, 504 and 648, 2006/198, 410, 437 and 509, 2007/6, 233, 339, 440 and 463, 2008/9, 41, 111, 223, 335 and 365 and 2009/107 and 109.

(2) Part XXXVIII was inserted by S.S.I. 2009/294.

(3) 2008 asp 5.

(4) Subject to the requirements of section 34(6)(b)(i) and (ii) of the Act, where an order for a medical examination is granted, the sheriff may direct that the order be notified to such persons, within such a timescale and by such method as he sees fit.

(5) For the avoidance of doubt, the method of intimation or notification referred to in paragraphs (2) and (4) may include intimation or notification by telephone, email or facsimile transmission.

Application for a quarantine order

3.39.4.—(1) An application made by a health board for a quarantine order under section 40(1) of the Act (quarantine orders) shall be in Form 40.

(2) On receipt of an application mentioned in paragraph (1), the sheriff may order intimation of the application to such persons, within such a timescale and by such method as he sees fit.

(3) Where a quarantine order is granted by the sheriff it shall be in Form 41.

(4) Subject to the requirements of section 40(6)(b)(i) and (ii) of the Act, where a quarantine order is granted, the sheriff may direct that the order be notified to such persons, within such a timescale and by such method as he sees fit.

(5) For the avoidance of doubt, the method of intimation or notification referred to in paragraphs (2) and (4) may include intimation or notification by telephone, email or facsimile transmission.

Application for a short term detention order

3.39.5.—(1) An application made by a health board for a short term detention order under section 42(1) of the Act (order for removal to and detention in hospital) shall be in Form 42.

(2) An application made by a health board for a short term detention order under section 43(1) of the Act (order for detention in hospital) shall be in Form 44.

(3) On receipt of an application mentioned in paragraph (1) or (2), the sheriff may order intimation of the application to such persons, within such a timescale and by such method as he sees fit.

(4) Where a short term detention order is granted by the sheriff under section 42(1) of the Act it shall be in Form 43.

(5) Where a short term detention order is granted by the sheriff under section 43(1) of the Act it shall be in Form 45.

(6) Subject to the requirements of sections 42(4)(b)(i) and (ii) and 43(4)(b)(i) and (ii) of the Act, where a short term detention order is granted under section 42(1) or 43(1) of the Act, the sheriff may direct that the order be notified to such persons, within such a timescale and by such method as he sees fit.

(7) For the avoidance of doubt, the method of intimation or notification referred to in paragraphs (3) and (6) may include intimation or notification by telephone, email or facsimile transmission.

Application for an exceptional detention order

3.39.6.—(1) An application made by a health board for an exceptional detention order under section 45(1) of the Act (exceptional detention order) shall be in Form 46.

(2) On receipt of an application mentioned in paragraph (1), the sheriff may order intimation of the application to such persons, within such a timescale and by such method as he sees fit.

(3) Where an exceptional detention order is granted by the sheriff it shall be in Form 47.

(4) Subject to the requirements of section 45(4)(b)(i) and (ii) of the Act, where an exceptional detention order is granted, the sheriff may direct that the order be notified to such persons, within such a timescale and by such method as he sees fit.

(5) For the avoidance of doubt, the method of intimation or notification referred to in paragraphs (2) and (4) may include intimation or notification by telephone, email or facsimile transmission.

Application for extension of a quarantine order, short term detention order or exceptional detention order

3.39.7.—(1) An application made by a health board for an extension to a quarantine order, a short term detention order or an exceptional detention order under section 49(5) of the Act (extension of quarantine and hospital detention orders) shall be in Form 48.

(2) On receipt of an application mentioned in paragraph (1), the sheriff may order intimation of the application to such persons, within such a timescale and by such method as he sees fit.

(3) Where an order extending a quarantine order, a short term detention order or an exceptional detention order is granted by the sheriff it shall be in Form 49.

(4) Subject to the requirements of section 49(10)(b)(i) and (ii) of the Act, where an order mentioned in paragraph (3) is granted, the sheriff may direct that the order be notified to such persons, within such a timescale and by such method as he sees fit.

(5) For the avoidance of doubt, the method of intimation or notification referred to in paragraphs (2) and (4) may include intimation or notification by telephone, email or facsimile transmission.

Application for modification of a quarantine order, short term detention order or exceptional detention order

3.39.8.—(1) An application made by a health board for an order modifying a quarantine order, a short term detention order or an exceptional detention order under section 51(1) of the Act (variation of quarantine and hospital detention orders) shall be in Form 50.

(2) On receipt of an application mentioned in paragraph (1), the sheriff may order intimation of the application to such persons, within such a timescale and by such method as he sees fit.

(3) Where an order modifying a quarantine order, a short term detention order or an exceptional detention order is granted by the sheriff it shall be in Form 51.

(4) Subject to the requirements of section 51(5)(b)(i) and (ii) of the Act, where an order mentioned in paragraph (3) is granted, the sheriff may direct that the order be notified to such persons, within such a timescale and by such method as he sees fit.

(5) For the avoidance of doubt, the method of intimation or notification referred to in paragraphs (2) and (4) may include intimation or notification by telephone, email or facsimile transmission.

Application for recall of an order granted in the absence of the person to whom it relates

3.39.9.—(1) An application for recall of a quarantine order, a short term detention order or an exceptional detention order under section 59 of the Act (recall of orders granted in absence of persons to whom application relates) shall be in Form 52.

(2) Subject to section 59(6) of the Act, on receipt of an application mentioned in paragraph (1), the sheriff may order intimation of the application to such persons, within such a timescale and by such method as he sees fit.

(3) Where an order recalling a quarantine order, a short term detention order or an exceptional detention order is granted by the sheriff it shall be in Form 53.

(4) Where an order mentioned in paragraph (3) is granted, the sheriff may direct that the order be notified to such persons, within such a timescale and by such method as he sees fit.

(5) For the avoidance of doubt, the method of intimation or notification referred to in paragraphs (2) and (4) may include intimation or notification by telephone, email or facsimile transmission.

Intimation of applications in relation to a child

3.39.10.—(1) This rule applies where an application is made under this Part and the person who it is proposed will be subject to the order is under 16.

(2) On receipt of an application mentioned in paragraph (1), the sheriff may, in particular, order intimation of the application to a person who has day-to-day care or control of the person mentioned in paragraph (1).

Intimation of orders on the person to whom they apply

3.39.11. Where a sheriff, in the absence of the person to whom it applies, grants—

- (a) a quarantine order under section 40(1) of the Act;
- (b) a short term detention order under section 42(1) of the Act;
- (c) an exceptional detention order under section 45 of the Act,

and the order is intimated to the person to whom it applies, a copy of Form 52 shall be delivered to that person along with the order.

Appeal to the sheriff against an exclusion order or a restriction order

3.39.12.—(1) An appeal to the sheriff under section 61 of the Act (appeal against exclusion orders and restriction orders) in respect of an exclusion order or a restriction order shall be marked by lodging a note of appeal in Form 54.

(2) On the lodging of a note of appeal, the sheriff clerk shall send a copy of the note of appeal to—

- (a) the health board competent person who made the exclusion order or restriction order; and
- (b) the person in relation to whom the order applies, where that person is not the appellant.

(3) The sheriff shall make such order as he thinks fit in order to dispose of the appeal.

Application for a warrant to enter premises and take steps under Part 5 of the Act

3.39.13.—(1) An application made by a local authority for a warrant under section 78(2) of the Act (warrant to enter and take steps) shall be in Form 55.

(2) Where such a warrant is granted by the sheriff it shall be in Form 56.

Application for an order for disposal of a body

3.39.14.—(1) An application made by a local authority for an order for the disposal of a body under section 93 of the Act (power of sheriff to order removal to mortuary and disposal) shall be in Form 57.

(2) Where such an order is granted by the sheriff it shall be in Form 58.

Application for appointment of a single arbiter to determine a dispute in relation to compensation

3.39.15. An application under sections 30(6), 56(5), 57(3), 58(4) or 82(3) of the Act for the appointment of a single arbiter to determine a dispute in relation to compensation may be made by written application in the form of a letter addressed to the sheriff clerk.”

(3) In Schedule 1, after Form 35 insert the forms set out in the Schedule to this Act of Sederunt.