

# **PUBLIC HEALTH ETC. (SCOTLAND) ACT 2008**

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## **EXPLANATORY NOTES**

### **THE ACT – OVERVIEW**

#### **Part 4**

#### **Public Health Functions of Health Boards**

#### **Exclusion orders and restriction orders**

##### *Section 37 Exclusion orders*

68. This section allows a health board competent person to make an “exclusion order” which will exclude a person from any place or type of place specified in the order, and impose such conditions (if any) on the person as the competent person considers appropriate. Subsection (1) provides that an exclusion order may be made where the health board knows that a person in its area has an infectious disease, has been exposed to an organism which causes such a disease, is contaminated or has been exposed to a contaminant. In addition the health board must consider that there is a significant risk to public health and it is necessary to exclude that person from certain places to avoid or minimise that risk.
69. Under subsection (3), before making an exclusion order, the health board competent person must be satisfied that the criteria set out in subsection (1) have been met and have regard to imposing the least restrictive order necessary to protect public health.
70. Subsection (4) sets out what must be specified in an exclusion order: the person to whom it applies, the places from which the person is excluded, and any conditions being imposed. The subsection also specifies that the order must be served on the person to whom it applies and be notified to any person who was given an explanation under section 31, as well as to anyone else whom the competent person considers appropriate. In the case of an exclusion order stopping a child from attending school, for example, that might be the head teacher. An exclusion order may not specify a person’s own place of residence as a place from which that person can be excluded. The exclusion order comes into effect from the time it is served on the person to whom it applies.

##### *Section 38 Restriction orders*

71. This section allows a health board competent person to make a “restriction order” which will prohibit a person from carrying on any activity specified in the order, and impose such conditions (if any) on the person as the competent person considers appropriate. The section applies only where the health board knows that a person in its area has an infectious disease, has been exposed to an organism which causes such a disease, is contaminated or has been exposed to a contaminant. Restriction orders can be made only where the health board considers that there is a significant risk to public health and it is necessary for the person to be prohibited from carrying on certain activities to avoid or minimise that risk.

*These notes relate to the Public Health etc. (Scotland) Act  
2008 (asp 5) which received Royal Assent on 16 July 2008*

72. The health board competent person must be satisfied that all the required criteria are met and have regard to imposing the least restrictive order necessary to protect public health.
73. Subsection (4) sets out what must be specified in a restriction order: the person to whom it applies, the activity or type of activity which the person is prohibited from carrying on, and any conditions being imposed. The subsection also specifies that the order must be served on the person to whom it applies and be notified to any person who was given an explanation under section 31, as well as to anyone else whom the competent person considers is appropriate. The restriction order comes into effect from the time it is served on the person to whom it applies.