



# Public Health etc. (Scotland) Act 2008

## 2008 asp 5

### PART 10

#### GENERAL AND MISCELLANEOUS

##### *General and miscellaneous*

#### **122 Regulations and orders**

- (1) Any power conferred by this Act on the Scottish Ministers to make regulations or orders is exercisable by statutory instrument.
- (2) Any such power—
  - (a) may be exercised so as to make different provision for different cases or descriptions of case or for different purposes;
  - (b) includes power to make such incidental, supplementary, consequential, transitory, transitional or saving provision as the Scottish Ministers think fit.
- (3) The Scottish Ministers must, before making regulations under this Act, consult, in so far as it is reasonably practicable to do so, such persons as they consider appropriate.
- (4) A statutory instrument containing regulations under this Act is subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (5) No statutory instrument containing regulations made under section 25(3), [F<sup>1</sup>86A(1),] 94(1), 99(1) or 105(11) may be made unless a draft of it has been laid before, and approved by resolution of, the Scottish Parliament.
- (6) Subsection (5) does not apply to regulations made under section 25(3) [F<sup>2</sup>, 86A(1)] or 94(1) if the Scottish Ministers consider that the regulations need to be made urgently [F<sup>3</sup>(but see subsection (11))].
- (7) Where subsection (6) applies, the regulations (the “emergency regulations”)—
  - (a) must be laid before the Scottish Parliament; and
  - (b) cease to have effect at the expiry of the period of 28 days beginning with the date on which the regulations were made unless, before the expiry of that period, the regulations have been approved by a resolution of the Parliament.

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*Changes to legislation: There are currently no known outstanding effects for the Public Health etc. (Scotland) Act 2008, Section 122. (See end of Document for details)*

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- (8) Subsection (7)(b) does not apply in relation to regulations which—
- (a) revoke (in whole or in part) emergency regulations; and
  - (b) do—
    - (i) nothing else; or
    - (ii) nothing else except make provision incidental or supplementary to the revocation.
- (9) In calculating any period of 28 days for the purposes of subsection (7)(b), no account is to be taken of any period during which the Scottish Parliament is—
- (a) dissolved; or
  - (b) in recess for more than 4 days.
- (10) Where emergency regulations cease to have effect under subsection (7)(b), that does not—
- (a) affect anything previously done by reference to the regulations;
  - (b) prevent new emergency regulations being made to the same or similar effect.
- [<sup>F4</sup>(11) Subsection (6) does not apply to regulations under section 86A(1) which make provision modifying an Act of the Scottish Parliament or an Act of Parliament.
- (12) Where subsection (6) applies to regulations made under section 86A(1)—
- (a) the Scottish Ministers must explain why they consider that the regulations need to be made urgently, and
  - (b) the regulations must include provision for them to expire on a day specified in the regulations.
- (13) Subsection (12)(b) does not apply where the regulations amend regulations in which the provision mentioned in subsection (12)(b) has already been included.]

#### Textual Amendments

- F1** Word in s. 122(5) inserted (1.9.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(asp 8\)](#), **ss. 1(3)(a)**, 59(1)
- F2** Word in s. 122(6) inserted (1.9.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(asp 8\)](#), **ss. 1(3)(b)(i)**, 59(1)
- F3** Words in s. 122(6) inserted (1.9.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(asp 8\)](#), **ss. 1(3)(b)(ii)**, 59(1)
- F4** S. 122(11)-(13) inserted (1.9.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(asp 8\)](#), **ss. 1(3)(c)**, 59(1)

**Changes to legislation:**

There are currently no known outstanding effects for the Public Health etc. (Scotland) Act 2008, Section 122.