



# Public Health etc. (Scotland) Act 2008

## 2008 asp 5

### PART 4 **S**

#### PUBLIC HEALTH FUNCTIONS OF HEALTH BOARDS

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

### 37 Exclusion orders **S**

- (1) This section applies where—
  - (a) a health board knows that a person who is present in that board's area—
    - (i) has an infectious disease;
    - (ii) has been exposed to an organism which causes such a disease;
    - (iii) is contaminated; or
    - (iv) has been exposed to a contaminant; and
  - (b) it appears to the board 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 excluded from certain places.
- (2) A health board competent person may make an order (an “exclusion order”)—
  - (a) prohibiting the person from entering or remaining in any place; and
  - (b) imposing such conditions (if any) on the person as the competent person considers appropriate.
- (3) A competent person—
  - (a) may not make an exclusion order unless that person is satisfied as to the matters mentioned in subsection (1);
  - (b) must, when making such an order, have regard to the desirability of imposing the least restrictive order necessary to protect public health.
- (4) The exclusion order must—
  - (a) specify—
    - (i) the person to whom it applies;

*Changes to legislation: There are currently no known outstanding effects for the Public Health etc. (Scotland) Act 2008, Cross Heading: Exclusion orders and restriction orders. (See end of Document for details)*

- (ii) subject to subsection (5), the place, or type of place, from which the person is excluded; and
- (iii) any conditions imposed on the person;
- (b) be served on the person to whom it applies; and
- (c) be notified to—
  - (i) any person who was given an explanation under section 31(5); and
  - (ii) any other person the competent person considers appropriate.
- (5) An exclusion order may not specify, as a place from which a person is excluded, that person's place of residence.
- (6) An exclusion order has effect only from the time it is served on the person to whom it applies.

#### Commencement Information

**II** S. 37 in force at 1.10.2009 by S.S.I. 2009/319, art. 2(a), Sch. 1

### 38 Restriction orders **S**

- (1) This section applies where—
  - (a) a health board knows that a person who is present in that board's area—
    - (i) has an infectious disease;
    - (ii) has been exposed to an organism which causes such a disease;
    - (iii) is contaminated; or
    - (iv) has been exposed to a contaminant; and
  - (b) it appears to the board 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 restricted from carrying on certain activities.
- (2) A health board competent person may make an order (a “restriction order”)—
  - (a) prohibiting the person from carrying on any activity; and
  - (b) imposing such conditions (if any) on the person as the competent person considers appropriate.
- (3) A competent person—
  - (a) may not make a restriction order unless that person is satisfied as to the matters mentioned in subsection (1);
  - (b) must, when making a restriction order, have regard to the desirability of imposing the least restrictive order necessary to protect public health.
- (4) The restriction order must—
  - (a) specify—
    - (i) the person to whom it applies;
    - (ii) the activity, or type of activity, which the person is prohibited from carrying on; and
    - (iii) any conditions imposed on the person;
  - (b) be served on the person to whom it applies; and

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**Changes to legislation:** There are currently no known outstanding effects for the Public Health etc. (Scotland) Act 2008, Cross Heading: Exclusion orders and restriction orders. (See end of Document for details)

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- (c) be notified to—
    - (i) any person who was given an explanation under section 31(5); and
    - (ii) any other person the competent person considers appropriate.
- (5) A restriction order has effect only from the time it is served on the person to whom it applies.

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**Commencement Information**

**I2** S. 38 in force at 1.10.2009 by S.S.I. 2009/319, art. 2(a), Sch. 1

**Changes to legislation:**

There are currently no known outstanding effects for the Public Health etc. (Scotland) Act 2008,  
Cross Heading: Exclusion orders and restriction orders.