

Public Health etc. (Scotland) Bill

1st Groupings of Amendments for Stage 2

This document provides procedural information which will assist in preparing for and following proceedings on the above Bill. The information provided is as follows:

- the list of groupings (that is, the order in which amendments will be debated). Any procedural points relevant to each group are noted;
- the text of amendments to be debated on the first day of Stage 2 consideration, set out in the order in which they will be debated. **THIS LIST DOES NOT REPLACE THE MARSHALLED LIST, WHICH SETS OUT THE AMENDMENTS IN THE ORDER IN WHICH THEY WILL BE DISPOSED OF.**

Groupings of amendments

Consultation on regulations

160, 161, 168

Joint public health protection plans

192

Variation or withdrawal of directions under Part 1

162, 163

Notifiable diseases and organisms

18, 19, 20, 21, 22, 23, 24

Notification under Part 2: information to be notified

25, 25A, 26, 27, 27A, 164, 165, 166, 167

Part 2 guidance: privacy impact assessments

193, 195, 196, 197

Meaning of “health risk state”

28, 29, 194

Duties on directors of diagnostic laboratories

30, 31, 32, 33, 34

Notification under part 2: electronic signatures

35, 36

Power to modify enactments for purposes of Part 2

169

Power to appoint public health investigator

37, 38, 39

Powers of investigators etc. under Parts 3 and 5

43, 44, 45, 47, 48, 49, 170, 50, 51, 52, 53, 177, 179, 180, 181, 182, 183, 184, 185, 186, 187

Conferring of further powers on investigators: extent and procedure

198, 204

Procedure for applications etc.

46, 157, 178, 188, 189, 190

Offences under Part 3

40, 41, 42

Compensation for actions under Part 3

54, 55, 56, 57

Duty to give explanation

171, 58, 59, 60, 61, 63, 64, 72, 74, 80, 81, 86, 92, 93

Sheriff to whom applications relating to Part 4 orders are made

62, 172, 71, 173, 79, 174, 91, 175, 103, 108

Notes on amendments in this group

Amendment 62 pre-empts amendment 172

Amendment 71 pre-empts amendment 173

Amendment 79 pre-empts amendment 174

Amendment 91 pre-empts amendment 175

Orders for medical examination: appeals and reviews

65, 131, 201

Service and notification of Part 4 orders etc.

66, 67, 68, 69, 70, 76, 77, 78, 83, 84, 85, 88, 89, 90, 95, 96, 97, 100, 101, 176, 113, 114, 115

Exclusion orders: specified places

199, 200

Part 4: minor amendments

73, 98, 105, 106, 107, 110, 111

Period of effect of Part 4 orders

75, 82, 87, 94, 112

Variation and extension of Part 4 orders: identification of health board competent person

99, 102, 119, 123

Review etc. of orders under Part 4: role of health board competent person

104, 109, 116, 117, 118, 120, 121, 122, 124, 125, 126, 127, 128, 129, 132, 133, 135

Recall of Part 4 orders

130, 134

Period for appeals against quarantine and hospital detention orders

136

Exclusion and restriction orders: appeal to sheriff principal

137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 150

Effect of appeals

149, 151

Offences under Part 4

152, 153, 154, 155, 156, 158, 159

Regulation of provision of sunbeds

202, 1, 203, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17

Regulations and orders: procedure

191

THIS IS NOT THE MARSHALLED LIST

Amendments in debating order

Consultation on regulations

Michael Matheson

- 160** In section 3, page 2, line 33, after <may> insert <, after consulting such persons as they consider appropriate,>

Michael Matheson

- 161** In section 5, page 3, line 24, after <may> insert <, after consulting such persons as they consider appropriate,>

Michael Matheson

- 168** In section 19, page 13, line 4, after <may> insert <, after consulting such persons as they consider appropriate>

Joint public health protection plans

Dr Richard Simpson

- 192** In section 7, page 4, line 22, leave out <consult> and insert <agree that plan with>

Variation or withdrawal of directions under Part 1

Michael Matheson

- 162** In section 8, page 5, line 28, leave out <from time to time>

Michael Matheson

- 163** In section 9, page 6, line 20, leave out <from time to time>

Notifiable diseases and organisms

Shona Robison

- 18** In schedule 1, page 67, line 30, at end insert—
<West Nile fever>

Shona Robison

- 19** In schedule 1, page 68, line 11, at end insert—
<Clostridium perfringens>

Shona Robison

- 20** In schedule 1, page 68, line 13, at end insert—

THIS IS NOT THE MARSHALLED LIST

<*Corynebacterium ulcerans*>

Shona Robison

- 21 In schedule 1, page 69, line 8, at end insert—

<*Mycobacterium bovis*>

Shona Robison

- 22 In schedule 1, page 69, line 30, leave out <*Varicella*> and insert <*Varicella-zoster*>

Shona Robison

- 23 In schedule 1, page 69, line 32, at end insert—

<*West Nile fever virus*>

Shona Robison

- 24 In schedule 1, page 70, leave out line 5

Notification under Part 2: information to be notified

Shona Robison

- 25 In section 13, page 8, line 24, at end insert—

<() the address and postcode of the patient's place of work or education (if the practitioner considers that it is relevant);>

Dr Richard Simpson

- 25A As an amendment to amendment 25, line 2, after first <the> insert <name,>

Shona Robison

- 26 In section 13, page 8, line 32, leave out from beginning to <any> in line 34 and insert—

<(a) the patient's—

(i) community health index number; or

(ii) where that number is not known, NHS identification number; or

(b) where neither of the numbers referred to in paragraph (a) is known, any>

Shona Robison

- 27 In section 14, page 9, line 24, at end insert—

<() the address and postcode of the patient's place of work or education (if the practitioner considers that it is relevant);>

Dr Richard Simpson

- 27A As an amendment to amendment 27, line 2, after first <the> insert <name,>

THIS IS NOT THE MARSHALLED LIST

Michael Matheson

- 164** In section 15, page 10, line 20, at end insert—
<() the patient's name>

Michael Matheson

- 165** In section 15, page 10, line 21, after <patient's> insert <address and>

Michael Matheson

- 166** In section 16, page 11, line 32, at end insert <and postcode>

Michael Matheson

- 167** In section 16, page 11, line 32, at end insert—
<() the person's occupation>

Part 2 guidance: privacy impact assessments

Dr Richard Simpson

- 193** In section 13, page 8, line 35, at end insert—
<() Before issuing any guidance on the implementation of this section, the Scottish Ministers must, in respect of such guidance—
(a) undertake; and
(b) have regard to the outcome of,
a privacy impact assessment in line with guidance issued by the Information Commissioner's Office.>

Dr Richard Simpson

- 195** In section 14, page 10, line 4, at end insert—
<() Before issuing any guidance on the implementation of this section, the Scottish Ministers must, in respect of such guidance—
(a) undertake; and
(b) have regard to the outcome of,
a privacy impact assessment in line with guidance issued by the Information Commissioner's Office.>

Dr Richard Simpson

- 196** In section 15, page 11, line 8, at end insert—
<() Before issuing any guidance on the implementation of this section, the Scottish Ministers must, in respect of such guidance—
(a) undertake; and
(b) have regard to the outcome of,

THIS IS NOT THE MARSHALLED LIST

a privacy impact assessment in line with guidance issued by the Information Commissioner's Office.>

Dr Richard Simpson

197 In section 16, page 12, line 15, at end insert—

<() Before issuing any guidance on the implementation of this section, the Scottish Ministers must, in respect of such guidance—

(a) undertake; and

(b) have regard to the outcome of,

a privacy impact assessment in line with guidance issued by the Information Commissioner's Office.>

Meaning of “health risk state”

Shona Robison

28 In section 14, page 9, line 29, leave out <includes> and insert <means>

Shona Robison

29 In section 14, page 9, line 30, leave out <and> and insert <or>

Dr Richard Simpson

194 In section 14, page 9, line 35, after <is> insert <unexpected, unforeseen or out of the ordinary and>

Duties on directors of diagnostic laboratories

Shona Robison

30 In section 16, page 12, line 4, at end insert—

<(7A) For the purposes of subsection (1), a diagnostic laboratory identifies a notifiable organism where—

(a) the diagnostic laboratory identifies the organism; or

(b) the organism is identified by another laboratory under an arrangement with that diagnostic laboratory.

(7B) Where subsection (7A)(b) applies, the day of identification, for the purposes of subsection (2), is the day on which the diagnostic laboratory becomes aware of the identification by the other laboratory.>

Shona Robison

31 In section 16, page 12, line 11, after <practitioner> insert <or other person>

Shona Robison

32 In section 16, page 12, line 11, leave out <, or providing medical supervision in,>

THIS IS NOT THE MARSHALLED LIST

Shona Robison

33 In section 17, page 12, line 19, at end insert—

<() In proceedings for an offence under subsection (1), it is a defence for the director to prove that the director exercised all due diligence and took all reasonable steps to avoid committing the offence.>

Shona Robison

34 In section 17, page 12, line 25, leave out subsection (3) and insert—

<() In proceedings for an offence under subsection (2), it is a defence for the body corporate to prove that the body corporate (or an employee or agent of the body corporate) exercised all due diligence and took all reasonable steps to avoid committing the offence.>

Notification under part 2: electronic signatures

Shona Robison

35 In section 18, page 12, line 34, leave out subsection (2)

Shona Robison

36 In section 18, page 13, line 1, leave out subsection (4)

Power to modify enactments for purposes of Part 2

Michael Matheson

169 In section 19, page 13, line 16, after <any> insert <rule of law or>

Power to appoint public health investigator

Shona Robison

37 In section 21, page 14, line 14, at end insert <competent person>

Shona Robison

38 In section 21, page 14, line 16, at end insert <competent person>

Shona Robison

39 In section 21, page 14, line 18, at end insert—

<() Despite subsection (2)(b) and (d), a health board competent person or a local authority competent person may be appointed as an investigator.>

THIS IS NOT THE MARSHALLED LIST

Powers of investigators etc. under Parts 3 and 5

Shona Robison

- 43 In section 22, page 14, leave out lines 35 and 36

Shona Robison

- 44 In section 22, page 15, line 4, leave out from <for> to end of line 5

Shona Robison

- 45 In section 23, page 15, line 35, at end insert—

<() to make such examination and investigation as may in the circumstances be necessary.>

Shona Robison

- 47 In section 27, page 17, line 32, leave out from <(and> to <investigator)> in line 33

Shona Robison

- 48 In section 27, page 17, line 34, at end insert—

<(aa) on entering premises by virtue of paragraph (a), to take—

- (i) any other person authorised by the investigator and, if the investigator has reasonable cause to expect any serious obstruction in obtaining access, a constable; and
- (ii) any equipment or materials required for any purpose for which the power of entry is being exercised;>

Shona Robison

- 49 In section 27, page 18, line 3, leave out <section 23 or 24> and insert <sections 23 to 25>

Shona Robison

- 170 In section 27, page 18, line 4, leave out <authorise entry> and insert <grant a warrant in relation>

Shona Robison

- 50 In section 27, page 18, line 8, leave out <subsection (2)(a)> and insert <this section>

Shona Robison

- 51 In section 27, page 18, line 11, leave out <subsection (2)(a)> and insert <this section>

Shona Robison

- 52 In section 28, page 18, line 24, leave out from <do> to end of line 25 and insert—

<(a) take—

- (i) any other person authorised by the investigator and, if the investigator has reasonable cause to expect any serious obstruction in obtaining access, a constable; and
- (ii) any equipment or materials required for any purpose for which the power of entry is being exercised;

THIS IS NOT THE MARSHALLED LIST

(b) direct that—

(i) those premises (or any part of them) are; or

(ii) any thing in or on them is,

to be left undisturbed (whether generally or in particular respects) for so long as the investigator considers appropriate;

(c) exercise any power mentioned in sections 23 to 25.>

Shona Robison

53 In section 28, page 18, line 26, leave out <subsection (2)> and insert <this section>

Shona Robison

177 In section 69, page 47, line 7, at end insert—

<() An authorised officer who enters any unoccupied premises by virtue of subsection (2) must leave the premises as effectively secured against unauthorised entry as the officer found them.>

Shona Robison

179 In section 73, page 49, line 24, leave out from <(and> to <officer)> in line 25

Shona Robison

180 In section 73, page 49, line 26, at end insert—

<() on entering premises by virtue of paragraph (a), to take any other person authorised by the officer and, if the officer has reasonable cause to expect any serious obstruction in obtaining access, a constable;>

Shona Robison

181 In section 73, page 49, line 32, at end insert <;

() to remove any thing from the premises for the purpose of taking any such step at any other place.>

Shona Robison

182 In section 73, page 49, line 33, leave out from <authorise> to <(c)> in line 34 and insert <grant a warrant in relation to a dwellinghouse>

Shona Robison

183 In section 73, page 49, line 38, leave out <subsection (2)(a)> and insert <this section>

Shona Robison

184 In section 73, page 50, line 2, at end insert—

<() An authorised officer who enters any unoccupied premises by virtue of this section must leave the premises as effectively secured against unauthorised entry as the officer found them.>

Shona Robison

185 In section 74, page 50, line 13, leave out from <do> to end of line 14 and insert—

THIS IS NOT THE MARSHALLED LIST

- <() take any other person authorised by the officer and, if the officer has reasonable cause to expect any serious obstruction in obtaining access, a constable;
- () direct that—
 - (i) those premises (or any part of them) are; or
 - (ii) any thing in or on them is,to be left undisturbed (whether generally or in particular respects) for so long as the officer considers appropriate;
- () take any step mentioned in section 68(2);
- () remove any thing from the premises for the purpose of taking any such step at any other place.>

Shona Robison

- 186** In section 74, page 50, line 15, leave out <subsection (2)> and insert <this section>

Shona Robison

- 187** In section 77, page 51, line 19, at end insert <; or
() section 74(4).>

Conferring of further powers on investigators: extent and procedure

Jamie Stone

- 198** In section 25, page 17, line 1, after <such> insert <supplementary>

Jamie Stone

- 204** In section 102, page 64, line 15, after <under> insert—
<() section 25(3) which modify an Act of Parliament or Act of the Scottish Parliament; or
()>

Procedure for applications etc.

Shona Robison

- 46** In section 27, page 17, line 31, leave out <summary>

Shona Robison

- 157** In section 66, page 44, line 23, leave out subsection (1) and insert—
<() Nothing in this Part affects the Court of Session’s power under section 32 of the Sheriff Courts (Scotland) Act 1971 (c.58) to regulate and prescribe the procedure and practice to be followed in any application or appeal under this Part.
() Without prejudice to the generality of section 32 of that Act, provision may, in particular, be made under that section about—

THIS IS NOT THE MARSHALLED LIST

- (a) the manner in which, and time within which, notice of applications for orders is given;
- (b) the manner in which, and time within which, notice of orders is given;
- (c) where applications and orders are made in relation to persons who are under 16, the persons to whom notice of such applications and orders must be given;
- (d) the circumstances in which the sheriff or, as the case may be, the sheriff principal, may determine whether and, if so, where, a hearing is to be held; and
- (e) the place or types of place at which hearings may be held.>

Shona Robison

178 In section 73, page 49, line 23, leave out <summary>

Shona Robison

188 In section 78, page 52, line 8, leave out subsection (4)

Shona Robison

189 In section 79, page 52, line 24, leave out subsection (5)

Shona Robison

190 After section 101, insert—

<Form of applications etc.

The Scottish Ministers may, by regulations, prescribe the form of any application or order under this Act.>

Offences under Part 3

Shona Robison

40 In section 29, page 18, line 36, at end insert <, without reasonable excuse>

Shona Robison

41 In section 29, page 18, line 37, leave out <, without reasonable excuse,>

Shona Robison

42 In section 29, page 19, line 21, at end insert <to avoid committing the offence>

Compensation for actions under Part 3

Shona Robison

54 In section 30, page 19, line 27, leave out <a person who appoints an investigator is to pay compensation> and insert <compensation is payable>

THIS IS NOT THE MARSHALLED LIST

Shona Robison

- 55 In section 30, page 19, line 30, at end insert <, 27(2)(aa)(i) or 28(4)(a)(i)>

Shona Robison

- 56 In section 30, page 19, line 37, at end insert—
- <(3A) The person responsible for paying compensation under this section is—
- (a) in the case of an investigator, the person by whom the investigator is employed;
 - (b) in the case of a person authorised by the investigator under section 22(1)(b)(i), 27(2)(aa)(i) or 28(4)(a)(i), the person by whom the authorised person is employed.
- (3B) For the purposes of subsection (3A), “employed” includes engaged under a contract for services.>

Shona Robison

- 57 In section 30, page 20, line 2, leave out from <person> to <damage,> in line 3 and insert <parties to the dispute>

Duty to give explanation

Michael Matheson

- 171 In section 31, page 20, line 15, at end insert <in a language understood by the person>

Shona Robison

- 58 In section 31, page 20, line 19, at end insert—
- <(3A) Where, before the proposed relevant action is taken, no explanation is given under subsection (3), the health board must, as soon as reasonably practicable after taking the proposed action and in so far as it is reasonably practicable to do so, explain—
- (a) the matters mentioned in subsection (3)(a) and (b); and
 - (b) why the board considered it necessary to take the action,
- to the person in relation to whom the action was taken.>

Shona Robison

- 59 In section 31, page 20, line 21, after <must,> insert <before taking the proposed action or as soon as reasonably practicable after doing so and, in either case,>

Shona Robison

- 60 In section 31, page 20, line 22, at end insert <required by subsection (3) or, as the case may be, (3A)>

Shona Robison

- 61 In section 31, page 20, line 30, leave out subsection (5)

Shona Robison

- 63 In section 33, page 22, line 11, leave out from second <the> to <urgency> in line 12

THIS IS NOT THE MARSHALLED LIST

Shona Robison

- 64** In section 34, page 22, line 37, leave out from <before> to end of line 2 on page 23 and insert—
- <() before the application under section 33(2) was made, the health board gave an explanation under section 31(3) or (4); or
 - () where no such explanation was given, it was not reasonably practicable to do so.>

Shona Robison

- 72** In section 39, page 27, line 7, leave out from second <the> to <urgency> in line 8

Shona Robison

- 74** In section 40, page 27, line 37, leave out from <before> to end of line 2 on page 28 and insert—
- <() before the application under section 39(2) was made, the health board gave an explanation under section 31(3) or (4); or
 - () where no such explanation was given, it was not reasonably practicable to do so.>

Shona Robison

- 80** In section 41, page 29, line 23, leave out from second <the> to <urgency> in line 24

Shona Robison

- 81** In section 42, page 30, line 11, leave out from <before> to end of line 14 and insert—
- <() before the application under section 41(2)(a) was made, the health board gave an explanation under section 31(3) or (4); or
 - () where no such explanation was given, it was not reasonably practicable to do so.>

Shona Robison

- 86** In section 43, page 31, line 11, leave out from <before> to end of line 14 and insert—
- <() before the application under section 41(2)(b) was made, the health board gave an explanation under section 31(3) or (4); or
 - () where no such explanation was given, it was not reasonably practicable to do so.>

Shona Robison

- 92** In section 44, page 32, line 28, leave out from second <the> to <urgency> in line 29

Shona Robison

- 93** In section 45, page 33, line 6, leave out from <before> to end of line 9 and insert—
- <() before the application under section 44(3) was made, the health board gave an explanation under section 31(3) or (4); or
 - () where no such explanation was given, it was not reasonably practicable to do so.>

THIS IS NOT THE MARSHALLED LIST

Sheriff to whom applications relating to Part 4 orders are made

Shona Robison

- 62 In section 33, page 21, line 34, leave out from second <the> to <office> in line 35 and insert <any sheriff for the board's area>

Rhoda Grant

- 172 In section 33, page 21, line 34, leave out from second <board> to <office> in line 35 and insert <person is present>

Shona Robison

- 71 In section 39, page 26, line 28, leave out from second <the> to <office> in line 29 and insert <any sheriff for the board's area>

Rhoda Grant

- 173 In section 39, page 26, line 28, leave out from second <board> to <office> in line 29 and insert <person is present>

Shona Robison

- 79 In section 41, page 29, line 5, leave out from second <the> to <office> in line 6 and insert <any sheriff for the board's area>

Rhoda Grant

- 174 In section 41, page 29, line 5, leave out from second <board> to <office> in line 6 and insert <person is present>

Shona Robison

- 91 In section 44, page 32, line 11, leave out from second <the> to <office> in line 12 and insert <any sheriff for the board's area>

Rhoda Grant

- 175 In section 44, page 32, line 11, leave out from second <board> to <office> in line 12 and insert <person is detained>

Shona Robison

- 103 In section 49, page 35, line 2, leave out <who made the order>

Shona Robison

- 108 In section 50, page 35, line 27, leave out <who made the order>

Orders for medical examination: appeals and reviews

Shona Robison

- 65 In section 34, page 23, line 5, leave out subsection (4) and insert—

THIS IS NOT THE MARSHALLED LIST

- <(4) Subject to subsection (4A), an order under subsection (1) has effect from the time at which it is made until—
- (a) the expiry of the period of 7 days beginning with that time; or
 - (b) the carrying out of a medical examination authorised by the order,
- whichever occurs first.
- (4A) Where, before the medical examination is carried out, an appeal under section (*Appeal against orders for medical examination*)(1) is made—
- (a) the order appealed against is suspended; and
 - (b) in calculating the period of 7 days mentioned in subsection (4)(a), no account is to be taken of the period during which the order is suspended.>

Shona Robison

131 After section 57, insert—

<Appeals

Appeal against orders for medical examination

- (1) A person mentioned in subsection (2) may appeal to the sheriff principal against the making of an order under section 34(1) authorising the medical examination of a person.
- (2) The person referred to in subsection (1) is—
 - (a) the person in relation to whom the order applies; or
 - (b) any person having an interest in the welfare of such a person.
- (3) An appeal under this section must be made before the expiry of the period of 7 days beginning with the day on which the order appealed against is made.
- (4) On an appeal under this section, the sheriff principal may—
 - (a) confirm the order;
 - (b) revoke the order;
 - (c) modify the order;
 - (d) where, before the appeal was made, the medical examination authorised by the order had been carried out, make an order declaring that the order was invalid;
 - (e) make such other order as the sheriff principal considers appropriate.
- (5) The decision of the sheriff principal on an appeal under this section is final.>

Dr Richard Simpson

201 After section 57, insert—

<Reviews

Retrospective review of orders for medical examination

- (1) This section applies where a person has been the subject of a medical examination authorised by an order under section 34.
- (2) A person mentioned in subsection (3) may apply to the Court of Session for a review of the medical order.
- (3) The person referred to in subsection (2) is—

THIS IS NOT THE MARSHALLED LIST

- (a) the person in relation to whom the order applied; or
 - (b) any person having an interest in the welfare of such a person.
- (4) An application for a review under this section must be made within 90 days of the medical examination taking place.
- (5) The Court of Session is to report on the circumstances surrounding the making of the order and its implementation.>

Service and notification of Part 4 orders etc.

Shona Robison

66 In section 34, page 23, line 13, leave out from beginning to <applies;>

Shona Robison

67 In section 34, page 23, line 14, leave out <copied> and insert <notified>

Shona Robison

68 In section 34, page 23, line 14, at end insert—
<() the person to whom it applies;>

Shona Robison

69 In section 37, page 25, line 13, leave out <copied> and insert <notified>

Shona Robison

70 In section 38, page 26, line 10, leave out <copied> and insert <notified>

Shona Robison

76 In section 40, page 28, line 27, leave out from beginning to <applies;>

Shona Robison

77 In section 40, page 28, line 28, leave out <copied> and insert <notified>

Shona Robison

78 In section 40, page 28, line 28, at end insert—
<() the person to whom it applies;>

Shona Robison

83 In section 42, page 30, line 25, leave out from beginning to <applies;>

Shona Robison

84 In section 42, page 30, line 26, leave out <copied> and insert <notified>

Shona Robison

85 In section 42, page 30, line 26, at end insert—

THIS IS NOT THE MARSHALLED LIST

<() the person to whom it applies;>

Shona Robison

88 In section 43, page 31, line 24, leave out from beginning to <applies;>

Shona Robison

89 In section 43, page 31, line 25, leave out <copied> and insert <notified>

Shona Robison

90 In section 43, page 31, line 25, at end insert—

<() the person to whom it applies;>

Shona Robison

95 In section 45, page 33, line 19, leave out from beginning to <applies;>

Shona Robison

96 In section 45, page 33, line 20, leave out <copied> and insert <notified>

Shona Robison

97 In section 45, page 33, line 20, at end insert—

<() the person to whom it applies;>

Shona Robison

100 In section 48, page 34, line 31, after <any> insert <other>

Shona Robison

101 In section 48, page 34, line 31, leave out <copied> and insert <notified>

Shona Robison

176 In section 49, page 35, line 21, at end insert—

<() An order under subsection (3)(a) or (b) must—

(a) specify—

(i) the person to whom the order extended by virtue of that subsection applies;
and

(ii) the period for which that order is extended; and

(b) be notified to—

(i) the person to whom the order applies;

(ii) any person to whom an explanation was given under section 31(4); and

(iii) any other person the sheriff considers appropriate.>

Shona Robison

113 In section 51, page 36, line 29, leave out from beginning to <applies;>

THIS IS NOT THE MARSHALLED LIST

Shona Robison

- 114 In section 51, page 36, line 30, leave out <copied> and insert <notified>

Shona Robison

- 115 In section 51, page 36, line 30, at end insert—
<() the person to whom the order applies;>

Exclusion orders: specified places

Helen Eadie

- 199 In section 37, page 24, line 37, leave out <in any place> and insert <, subject to subsection (5), in any type of place, or place, specified in the order>

Helen Eadie

- 200 In section 37, page 25, line 9, leave out from beginning to <excluded;> in line 10

Part 4: minor amendments

Shona Robison

- 73 In section 40, page 27, line 18, leave out <in respect of a person>

Shona Robison

- 98 In section 48, page 34, line 14, leave out <The> and insert <A>

Shona Robison

- 105 In section 49, page 35, line 4, leave out <extend> and insert <make an order extending>

Shona Robison

- 106 In section 49, page 35, line 7, leave out <extend> and insert <make an order extending>

Shona Robison

- 107 In section 50, page 35, line 27, leave out <The> and insert <A>

Shona Robison

- 110 In section 51, page 36, line 2, leave out from <that> to <apply> and insert <as to the matters mentioned in subsection (1A)>

Shona Robison

- 111 In section 51, page 36, line 11, at end insert—
<(1A) The matters referred to in subsection (1) are—
(a) the matters mentioned in section 40(2)(a) and (b)(i), 42(2)(a) and (b)(i), 43(2)(a) and (b)(i) or, as the case may be, 45(2)(a); and

THIS IS NOT THE MARSHALLED LIST

- (b) that it is necessary, to avoid or minimise a risk to public health, for the person to continue to be quarantined or, as the case may be, detained in hospital.>

Period of effect of Part 4 orders

Shona Robison

- 75 In section 40, page 28, line 3, after <effect> insert—
<() from the time at which it is made;
()>

Shona Robison

- 82 In section 42, page 30, line 15, after <effect> insert—
<() from the time at which it is made;
()>

Shona Robison

- 87 In section 43, page 31, line 15, after <effect> insert—
<() from the time at which it is made;
()>

Shona Robison

- 94 In section 45, page 33, line 10, after <effect> insert—
<() from the time at which it is made;
()>

Shona Robison

- 112 In section 51, page 36, line 12, leave out from <from> to end of line 13 and insert <as so modified from the time at which the order under that subsection is made>

Variation and extension of Part 4 orders: identification of health board competent person

Shona Robison

- 99 In section 48, page 34, line 14, leave out <who made the order> and insert <of the appropriate health board>

Shona Robison

- 102 In section 48, page 34, line 32, at end insert—
<(5) In subsection (2), “appropriate health board” means the board which designated the health board competent person who made the order.>

THIS IS NOT THE MARSHALLED LIST

Shona Robison

- 119** In section 52, page 37, line 20, leave out from <means> to end of line 21 and insert <has the same meaning as in section 48(5);>

Shona Robison

- 123** In section 53, page 38, line 5, leave out <52(5)> and insert <48(5)>

Review etc. of orders under Part 4: role of health board competent person

Shona Robison

- 104** In section 49, page 35, line 2, at end insert—
- <(2A) An application under subsection (2) must—
 - (a) specify—
 - (i) the order which it is proposed to extend; and
 - (ii) the person to whom that order applies; and
 - (b) include a certificate such as is mentioned in subsection (2B).
 - (2B) That certificate is one—
 - (a) stating that a health board competent person is satisfied—
 - (i) as to the matters mentioned in section 40(2)(a) and (b)(i), 42(2)(a) and (b)(i), 43(2)(a) and (b)(i) or, as the case may be, 45(2)(a); and
 - (ii) that it is necessary, to avoid or minimise a risk to public health, for the person to continue to be quarantined or, as the case may be, detained in hospital; and
 - (b) signed by that person.>

Shona Robison

- 109** In section 50, page 35, leave out lines 34 to 37 and insert—
- <() include a certificate such as is mentioned in subsection (4).
 - (4) That certificate is one—
 - (a) stating that a health board competent person is satisfied—
 - (i) as to the matters mentioned in section 40(2)(a) and (b)(i), 42(2)(a) and (b)(i), 43(2)(a) and (b)(i) or, as the case may be, 45(2)(a); and
 - (ii) that it is necessary, to avoid or minimise a risk to public health, for the person to continue to be quarantined or, as the case may be, detained in hospital; and
 - (b) signed by that person.>

Shona Robison

- 116** In section 52, page 37, line 1, after <53(2),> insert <a health board competent person of>

THIS IS NOT THE MARSHALLED LIST

Shona Robison

- 117 In section 52, page 37, line 13, leave out <health board> insert <competent person>

Shona Robison

- 118 In section 52, page 37, line 17, leave out from first <health> to <to> and insert <competent person must>

Shona Robison

- 120 In section 53, page 37, line 31, after <52(2),> insert <a health board competent person of>

Shona Robison

- 121 In section 53, page 37, line 36, leave out <board> and insert <competent person>

Shona Robison

- 122 In section 53, page 38, line 2, leave out from first <board> to <to> and insert <competent person must>

Shona Robison

- 124 In section 54, page 38, line 8, leave out <The health board> and insert <A health board competent person of the health board which applied for the order>

Shona Robison

- 125 In section 54, page 38, line 20, leave out <health board> and insert <competent person>

Shona Robison

- 126 In section 54, page 38, line 24, leave out <health board> and insert <competent person>

Shona Robison

- 127 In section 55, page 38, line 29, leave out <The health board> and insert <A health board competent person of the health board which applied for the order>

Shona Robison

- 128 In section 55, page 39, line 2, leave out <health board> and insert <competent person>

Shona Robison

- 129 In section 55, page 39, line 6, leave out <health board> and insert <competent person>

Shona Robison

- 132 In section 58, page 40, line 22, leave out <the health board> insert <a health board competent person>

Shona Robison

- 133 In section 58, page 40, line 22, leave out <direct the revocation of> and insert <revoke>

THIS IS NOT THE MARSHALLED LIST

Shona Robison

- 135** In section 59, page 41, line 10, leave out <the health board> and insert <a health board competent person>

Recall of Part 4 orders

Shona Robison

- 130** After section 57, insert—

<Recall of orders granted in absence

Recall of orders granted in absence of person to whom application relates

- (1) This section applies where—
 - (a) a quarantine order;
 - (b) a short term detention order; or
 - (c) an exceptional detention order,is made in the absence of the person to whom the order applies.
- (2) A person mentioned in subsection (3) may apply to the sheriff for an order recalling the order.
- (3) The person referred to in subsection (2) is—
 - (a) the person to whom the order applies; or
 - (b) any person having an interest in the welfare of such a person.
- (4) An application under this section must be made before the expiry of the period of 72 hours beginning with the time at which the order to which the application relates is notified to the person to whom it applies.
- (5) The sheriff must, before determining an application under this section, give the persons mentioned in subsection (6) the opportunity—
 - (a) of making representations (whether orally or in writing); and
 - (b) of leading, or producing, evidence.
- (6) Those persons are—
 - (a) the applicant;
 - (b) where the applicant is not the person to whom the order applies, that person;
 - (c) the health board which applied for the order; and
 - (d) any other person the sheriff considers appropriate.
- (7) On an application under this section, the sheriff may—
 - (a) confirm the order;
 - (b) revoke the order.>

Shona Robison

- 134** In section 59, page 41, line 7, at end insert—

THIS IS NOT THE MARSHALLED LIST

<() a decision of the sheriff under section (*Recall of orders granted in absence of person to whom application relates*)(7) confirming the order;>

Period for appeals against quarantine and hospital detention orders

Shona Robison

136 In section 59, page 41, line 15, leave out <21> and insert <14>

Exclusion and restriction orders: appeal to sheriff principal

Shona Robison

137 After section 59, insert—

<Exclusion orders and restriction orders: further appeal to sheriff principal

- (1) A person who appealed under section 58(2) may, with the leave of the sheriff, appeal against a decision mentioned in subsection (2) to the sheriff principal.
- (2) A decision referred to in subsection (1) is a decision of the sheriff—
 - (a) to confirm the exclusion order appealed against;
 - (b) to confirm the restriction order appealed against; or
 - (c) to modify the order.
- (3) A health board aggrieved by an appeal under section 58(2) may, with the leave of the sheriff, appeal against a decision mentioned in subsection (4) to the sheriff principal.
- (4) A decision referred to in subsection (3) is a decision of the sheriff—
 - (a) to revoke the exclusion order appealed against;
 - (b) to revoke the restriction order appealed against; or
 - (c) to modify the order.
- (5) An appeal under this section may be made only on the ground that—
 - (a) the sheriff erred in law;
 - (b) the decision of the sheriff was not supported by the facts established by the sheriff in the appeal.
- (6) On an appeal under this section, the sheriff principal may—
 - (a) confirm the order;
 - (b) modify the order;
 - (c) revoke the order;
 - (d) make such other order as the sheriff principal considers appropriate.
- (7) In subsection (6)(b), “modify” is to be construed in accordance with section 48.
- (8) The decision of the sheriff principal on an appeal under this section is final.>

THIS IS NOT THE MARSHALLED LIST

Shona Robison

138 In section 60, page 41, line 25, leave out <58(2) or, as the case may be,>

Shona Robison

139 In section 60, page 41, line 26, leave out <sheriff or, as the case may be, the>

Shona Robison

140 In section 60, page 41, leave out lines 29 to 32

Shona Robison

141 In section 60, page 41, line 33, leave out <, on an appeal under section 59(2)>

Shona Robison

142 In section 60, page 41, line 36, after <board> insert <aggrieved by an appeal under section 59(2)>

Shona Robison

143 In section 60, page 41, line 36, leave out <sheriff or, as the case may be, the>

Shona Robison

144 In section 60, page 42, leave out lines 2 to 5

Shona Robison

145 In section 60, page 42, line 6, leave out <, on an appeal under section 59(2)>

Shona Robison

146 In section 60, page 42, line 10, leave out <sheriff or>

Shona Robison

147 In section 60, page 42, line 11, leave out <sheriff or>

Shona Robison

148 In section 60, page 42, line 12, leave out <sheriff or>

Shona Robison

150 In section 61, page 42, line 19, after <59(2)> insert <, (*Exclusion orders and restriction orders: further appeal to sheriff principal*)(1) or (3)>

Effect of appeals

Shona Robison

149 In section 60, page 42, line 17, at end insert—

<() The decision of the Court on an appeal under this section is final.>

THIS IS NOT THE MARSHALLED LIST

Shona Robison

- 151 In section 61, page 42, line 20, leave out <pending determination of the appeal>

Offences under Part 4

Shona Robison

- 152 In section 64, page 44, line 7, after second <person> insert <, without reasonable excuse,>

Shona Robison

- 153 In section 64, page 44, line 9, after <person;> insert—
 <() a person authorised by virtue of section 40(1) to remove a person to the place in which the person is to be quarantined;>

Shona Robison

- 154 In section 65, page 44, line 12, after <who> insert <, without reasonable excuse,>

Shona Robison

- 155 In section 65, page 44, line 18, at end insert <(including any condition imposed in the order)>

Shona Robison

- 156 After section 65, insert—
- <Failure to ensure child’s compliance with order**
- (1) This section applies where an order mentioned in subsection (2) is made in relation to a person who is under 16 (a “child”).
 - (2) The order referred to in subsection (1) is—
 - (a) an exclusion order;
 - (b) a restriction order; or
 - (c) a quarantine order.
 - (3) A parent of the child who—
 - (a) has day-to-day care or control of the child; and
 - (b) fails, without reasonable excuse, to ensure that the child does not breach the order, commits an offence.
 - (4) Where there is no such parent, a person mentioned in subsection (5) who fails, without reasonable excuse, to ensure that the child does not breach the order commits an offence.
 - (5) The person referred to in subsection (4) is a person who—
 - (a) is 16 or over; and
 - (b) has (otherwise than—
 - (i) by virtue of a contract of employment or other contract with any person; or
 - (ii) as a volunteer for a voluntary organisation),

THIS IS NOT THE MARSHALLED LIST

day-to-day care or control of the child.

- (6) In proceedings for an offence under subsection (3) or (4), it is a defence for the person to prove that the person exercised all due diligence and took all reasonable steps to avoid committing the offence.>

Shona Robison

158 In section 101, page 63, line 38, at beginning insert—

<() Subject to subsection (2),>

Shona Robison

159 In section 101, page 64, line 4, at end insert—

<(2) Any person who commits an offence under section 65(1) or (*Failure to ensure child's compliance with order*)(3) or (4) in relation to an exclusion or restriction order is liable, on summary conviction, to imprisonment for a period not exceeding 12 months or a fine not exceeding level 5 on the standard scale or both.>