

Public Health etc. (Scotland) Bill

2nd 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;
- a list of any amendments already debated;
- the text of amendments to be debated on the second 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

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Period for appeals against quarantine and hospital detention orders

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Exclusion and restriction orders: appeal to sheriff principal

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Effect of appeals

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Offences under Part 4, Part 5 and Part 6

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Minor amendments to Part 5

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Disinfection etc. of premises and things: forms of notice

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International health regulations

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With 46 – 157, 178, 188, 189, 190

Orders for medical examination: appeals and reviews

With 65 – 131

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

With 104 – 124, 125, 126, 127, 128, 129, 132, 133, 135

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Amendments in debating order

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—

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

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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.>

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>

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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.>

Shona Robison

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

Shona Robison

242 In section 80, page 53, line 2, at end insert—

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

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Offences under Part 4, Part 5 and Part 6

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

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- (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

- 238 In section 75, page 50, line 25, after second <person> insert <, without reasonable excuse,>

Shona Robison

- 243 In section 85, page 55, line 13, after <who> insert <, without reasonable excuse,>

Shona Robison

- 246 In section 88, page 56, line 37, after second <person> insert <, without reasonable excuse,>

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.>

Minor amendments to Part 5

Shona Robison

- 226 In section 67, page 45, line 29, leave out from <has> to <health;> in line 30 and insert—

<() has or carries an organism which causes an infectious disease; or
() has or carries an infectious disease,
which is a risk to human health;>

Shona Robison

- 227 In section 67, page 45, line 31, leave out from <has> to end of line 32 and insert—

<() has or carries an organism which causes an infectious disease; or
() has or carries an infectious disease,
which is a risk to human health.>

Shona Robison

- 228 In section 68, page 46, line 14, leave out <things or> and insert <a thing or such>

Shona Robison

- 234 In section 71, page 47, line 35, after <infected> insert <, infested>

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Disinfection etc. of premises and things: forms of notice

Shona Robison

229 In section 68, page 46, leave out line 27

Shona Robison

235 In section 71, page 48, leave out line 18

Powers of entry under Part 5 and Part 6

Shona Robison

230 In section 69, page 47, line 3, leave out <, and any other person authorised by the officer, may> and insert <may—

(a)>

Shona Robison

231 In section 69, page 47, line 5, at end insert <;

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

Shona Robison

232 In section 70, page 47, line 14, leave out <, and any other person authorised by the officer,>

Shona Robison

233 In section 70, page 47, line 15, at end insert—

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

Shona Robison

236 In section 71, page 48, line 21, leave out <, and any other person authorised by the officer,>

Shona Robison

237 In section 71, page 48, line 22, at end insert—

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

Shona Robison

244 In section 88, page 56, line 26, after second <authority> insert <(in either case, an “authorised officer”)>

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Shona Robison

- 245** In section 88, page 56, line 27, after <body;> insert—
- <() on entering premises by virtue of paragraph (a), take any other person authorised by the authorised officer and, if that officer has reasonable cause to expect any serious obstruction in obtaining access, a constable;>

Recovery of expenses by local authority

Shona Robison

- 239** In section 76, page 51, line 2, at end insert <; or
() section 74(4),>

Shona Robison

- 240** In section 76, page 51, line 7, leave out from <declare> to end of line 8 and insert <accept payment of sums recoverable under this section by instalments.>

Shona Robison

- 241** In section 76, page 51, line 9, leave out subsection (4) and insert—
- <() Sums due by a person under this section are recoverable by the local authority as a civil debt.>

International health regulations

Shona Robison

- 205** In section 89, page 57, line 5, leave out from <implementing> to end of line 7 and insert—
- <() giving effect to—
- (i) the International Health Regulations;
 - (ii) any other international agreements relating to the spread of infectious disease or contamination,
- so far as they have effect in or as regards Scotland;
- () protecting public health from risks arising from vehicles—
- (i) arriving in Scotland;
 - (ii) leaving Scotland.>

Shona Robison

- 206** In section 89, page 57, line 8, leave out <Provision> and insert <Regulations>

Shona Robison

- 207** In section 89, page 57, line 8, at end insert <make provision>

THIS IS NOT THE MARSHALLED LIST

Shona Robison

208 In section 89, page 57, line 8, at end insert—

- <() for persons to be—
 - (i) medically examined;
 - (ii) quarantined;
 - (iii) detained;
- () for persons to be required to provide information or answer questions (including information or questions relating to health);
- () for vehicles to be detained;
- () for prohibitions or restrictions on—
 - (i) the entry and departure of persons or things;
 - (ii) the arrival and leaving of vehicles;
- () for things to be—
 - (i) inspected;
 - (ii) tested;
 - (iii) detained;
 - (iv) destroyed;
- () for persons, vehicles or things to be—
 - (i) disinfected;
 - (ii) disinfested;
 - (iii) decontaminated;
- () for the imposition of obligations on—
 - (i) masters of ships;
 - (ii) pilots of aircraft;
 - (iii) other persons on board vehicles;
 - (iv) owners and managers of ports and airports;>

Shona Robison

209 In section 89, page 57, line 9, leave out <confer> and insert <conferring>

Shona Robison

210 In section 89, page 57, line 10, after <on> insert <the>

Shona Robison

211 In section 89, page 57, line 12, leave out <create> and insert <creating>

Shona Robison

212 In section 89, page 57, line 13, leave out <permit> and insert <permitting>

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Shona Robison

- 214** In section 89, page 57, line 26, at end insert <and includes a recommendation issued under those Regulations>

Shona Robison

- 224** In section 102, page 64, line 17, at end insert—
- <(5) Subsection (4) does not apply to regulations made under section 89(1) if the Scottish Ministers consider that the regulations need to be made urgently.
 - (6) Where subsection (5) 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.
 - (7) Subsection (6)(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.
 - (8) In calculating any period of 28 days for the purposes of subsection (6)(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.
 - (9) Where emergency regulations cease to have effect under subsection (6)(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.>

Penalties for offences

Shona Robison

- 213** In section 89, page 57, line 22, leave out <5> and insert <2>

Shona Robison

- 222** In section 101, page 64, line 3, leave out <5> and insert <2>