

## Public Health etc (Scotland) Bill

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Bill Number:	<a href="#">SP Bill 3</a>
Introduced on:	25 October 2007
Introduced by:	Nicola Sturgeon MSP (Executive Bill)
Passed:	12 June 2008
Royal Assent:	16 July 2008

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### Passage of the Bill

The [Public Health etc \(Scotland\) Bill](#) [SP Bill 3] was introduced in the Parliament on 25 October 2007. Stage 1 commenced on 9 January 2008 with the Health and Sport Committee as the lead committee. The Committee published its [Stage 1 Report](#) on 18 March 2008, with the [Stage 1 \(general principles\) debate](#) taking place on 17 April 2008. Stage 2 proceedings commenced on 7 May 2008 and ended on 21 May 2008. The [Bill was passed](#) following the [Stage 3 parliamentary debate](#) on 12 June 2008.

### Purpose and objectives of the Bill

The main aim of the Bill was to modernise the legislative framework governing the practice of health protection, given that much of the statutory provision in this area dates back to the late 19<sup>th</sup> Century.

The proposals in the Bill originated from deliberations of the Public Health Legislation Review Group, which was convened by the then Scottish Executive to review the legislation and consider whether or not it was able to meet modern public health challenges. The proposals of the review group were set out in a national [consultation](#) in October 2006, the [analysis](#) of which was published in March 2007.

### Provisions of the Bill

The main objective of the Bill was to modernise legislation on health protection, and, in summary, the main provisions included:

- clarifying the roles and responsibilities of NHS boards and local authorities
- a new system of statutory notification for diseases, organisms and health risk states
- powers for public health investigators
- orders for medical examination, quarantine, exclusion, restriction and hospital detention
- the Implementation of International Health Regulations
- changes to the statutory nuisance regime
- offences and penalties for non-compliance with aspects of the Bill

The Bill as introduced also proposed providing Ministers with the power to make regulations requiring operators of sunbed premises to provide information on the health effects of sunbeds.

### **Parliamentary consideration**

In its Stage 1 Report, the Health and Sport Committee made a number of recommendations on the provisions to the Bill. These, together with the Scottish Government's response, are contained in a [SPICe briefing](#) which outlines consideration of the Bill prior to stage 3. This briefing also discusses a number of issues that were debated during consideration of the Bill including the key amendments that were laid at stage 2, not all of which were agreed to.

The first of these was in connection with various court processes that were contained in the Bill as introduced. Evidence received by the Committee from the Law Society of Scotland suggested that court procedures referred to in the Bill were not competent. The Committee subsequently questioned the Minister for Public Health, Shona Robison MSP (the Minister), about this at Stage 1 and made a number of recommendations in its Stage 1 Report. This resulted in the Government lodging amendments at stage 2 to rectify the matter, all of which were agreed to.

A key consideration of the Committee was the extent to which the Bill encroached on civil liberties. Thus, the Committee questioned the safeguards contained in the Bill. For example, the Committee was concerned that the Bill did not allow for an appeal against an order for compulsory medical examination, as it did for other orders that restricted liberty. The Scottish Government stated that the policy intention behind the no appeal mechanism was that the decision to medically examine someone without consent would only occur as a last resort when it was crucial that evidence was obtained as to whether an individual or group of individuals had a particular infectious disease, or strain of disease, which could have a significant impact on public health. In addition, it considered that whilst orders that restricted liberty, i.e. exclusion, restriction, quarantine and detention, would remain in force while any appeal was being considered, this would not be possible in the case of medical examinations. However, in light of the Committee's and other stakeholders' concerns on this issue, the Scottish Government reconsidered the position. Whilst an appeal mechanism could delay the examination, the Scottish Government was assured that quarantine, as an initial response, could prevent or reduce the risk of spread of potential infection, until such time as an appeal on medical examination could be heard. Thus, it brought forward amendments at Stage 2 to allow for appeal against medical examination.

A further area of significant debate concerned the provisions relating to the requirement to provide information on the affect of sunbeds on health. However, it was expected that, if the Bill passed stage 1, these provisions were likely to be amended at stage 2 by the Scottish Government (in collaboration with Kenneth MacIntosh MSP, who was drafting a proposal for a Sunbed Licensing (Scotland) Bill), (lodged 22 May 2008) to introduce a

package of measures related to the regulation of sunbeds. Whilst welcoming the principle of some form of regulation the Committee reserved the right to seek further evidence once any amendments had been lodged.

At stage 2, two main sets of amendments were lodged. Helen Eadie MSP sought to introduce a national licensing scheme for sunbeds through amending the Civic Government (Scotland) Act 1982 (the 1982 Act). Mr Macintosh MSP proposed, with the support of the Scottish Government, to bring in a regulation scheme with a variety of provisions including: making it an offence for an operator to allow persons under the age of 18 to use a sunbed on their premises; and, empowering an authorised local authority officer to enter and inspect premises and an environmental health officer (EHO) to enter a dwelling place.

The Committee had sympathy with Helen Eadie's amendments, particularly considering the difficulties of acting on health and safety standards. It was pointed out in evidence that a licensing scheme may make it easier to act on such standards, indeed some local authorities had already gone down this route. As health and safety standards were a matter for the UK Parliament, the Minister said she had begun discussions with the Health and Safety Executive to explore what could be done in practical terms about the problems of enforcement by EHOs. She suggested that if those discussions did not prove productive then discussions could take place on use of the 1982 Act, instead of trying to make further amendments at stage 3.

Following further debate Helen Eadie's amendments were not agreed to by a majority of the Committee, though Ken Macintosh's were agreed to unanimously. One outstanding issue in relation to Mr Macintosh's amendments was concerns about EHOs being able to enter private dwellings and the Minister agreed to further consider this at stage 3. At stage 3 an amendment lodged by Ross Finnie, which sought to ensure such intervention could only take place if it was granted by a sheriff, was agreed to.

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