

Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) Amendment (Public Health etc. (Scotland) Act 2008) 2009 (S.S.I. 2009/320)

RULES NOTE

INTRODUCTION

This document relates to the Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc Rules) Amendment (Public Health etc (Scotland) Act 2008) 2009 (SSI 2009/320) which was made on 18 September 2009. It has been prepared by the Secretariat to the Sheriff Court Rules Council and outlines the reasons for changes to rules as a consequence of the provisions of the Public Health etc (Scotland) Act 2008 (“the Act”).

CONTENT OF THE INSTRUMENT

The purpose of the Act is to consolidate and update the law on public health in Scotland. The Act creates powers and orders in relation to public health incidents and widens the scope of action which may be taken where there is a significant risk to public health. This Act of Sederunt provides rules for applications and appeals to the sheriff for various warrants and orders under Parts 3, 4, 5 and 6 of the Act.

Section 27(2) of the Act provides that public health investigators may apply to the sheriff for a warrant to enter premises and to exercise investigatory powers. **Rule 3.39.2** prescribes forms for applying for and for the granting of such warrants.

Part 4 of the Act assigns powers to health boards for public action in respect of people and provides for orders for exclusion, restriction, medical examination, quarantine and detention. The Act gives health boards the power to make exclusion and restriction orders, which can be appealed to the sheriff. **Rule 3.39.12** provides procedural requirements for appeals. The Act provides for applications to be made to the sheriff for orders for medical examination, quarantine and detention. Sections 49-51 of the Act provides for applications to the sheriff for such orders to be varied or extended. **Rules 3.39.3-3.39.8** prescribes procedural requirements and forms for applications relating to orders for medical examination, quarantine and detention. Section 59 of the Act allows a person against whom a quarantine or detention order was granted in their absence to apply for recall of that order within 72 hours of the order being notified. **Rule 3.39.9** provides the procedure for such applications.

Section 78 of the Act enables local authorities to apply to the sheriff to enter premises in relation to public health issues. **Rule 3.39.13** prescribes forms for applying for and for the granting of such warrants.

Section 92 of the Act allows local authorities to apply to the sheriff for an order to dispose of a body if they consider that appropriate arrangements have not been made for the disposal of the body and the body requires to be disposed of in order to minimise or avoid a significant risk to public health. **Rule 3.39.14** prescribes forms for applying for and the granting of such an order.

Sections 30, 56, 57, 58 and 84 of the Act all contain provision for the payment of compensation. If a dispute arises in relation to the compensation, the Act provides that the dispute is to be determined by a single arbiter appointed by agreement of the parties. If agreement of the appointment of a single arbiter cannot be reached, the Act provides for the sheriff to appoint the single arbiter. **Rule 3.39.15** provides the procedure for applying to the sheriff for such an appointment.

Secretariat to the Sheriff Court Rules Council

It should be noted that this Rules Note is for information purposes only.