EXECUTIVE NOTE

THE PUBLIC HEALTH ETC. (SCOTLAND) ACT 2008 DESIGNATION OF COMPETENT PERSONS REGULATIONS 2009

S.S.I. 2009/301

The above instrument was made in exercise of the powers conferred by section 3(4) and section 5(4) of the Public Health etc. (Scotland) Act 2008 ("the Act"). The instrument is subject to negative resolution procedure.

Policy Objectives

The Act requires each health board and local authority to designate a sufficient number of persons (to be known as health board and local authority "competent persons") for the purpose of exercising, on behalf of the board or local authority, the functions assigned to them in the Act, or any other enactment. This replaces current arrangements whereby Designated Medical Officers carry out health protection functions on behalf of the local authority.

The Scottish Ministers have the power in sections 4 and 5 of the Act to prescribe in regulations the persons, or classes of person, the qualifications, training and other requirements that those designated as health board and local authority competent persons must have. The purpose of the instrument is to set out the criteria of those who are eligible to be designated as competent persons under the Act.

The aim in the development of the Regulations was to ensure that those exercising functions under the Act, where personal liberty and property were being affected, should have the necessary professional expertise and skills to do so, whilst at the same time recognising the breadth and diversity of the public health workforce. For health board competent persons, the criteria includes not only specialist registered medical practitioners, but others with specialist health protection experience and training, e.g. nurses and those relevant professionals on the UK Public Health Register. For local authority competent persons, environmental health officers were acknowledged as the relevant professionals for designation. The criteria set out in the Regulations are the minimum required for designation. It will be for health boards and local authorities to select appropriate individuals from those who are eligible.

Consultation

The content of the instrument was developed with assistance from a Working Group comprising relevant public health interests, including health board, local authority, BMA and Faculty of Public Health representation. A draft instrument was the subject of public consultation, including with key stakeholder groups, from June to September 2008. There was majority support for the content of the Regulations.

Financial Effects

The instrument has no financial effects on the Scottish Government, the NHS, local government or on business.

Scottish Government
CMO and Public Health Directorate
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