

Public Bodies (Joint Working) (Scotland) Bill

[AS AMENDED AT STAGE 2]

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Public Bodies (Joint Working) (Scotland) Bill

[AS AMENDED AT STAGE 2]

An Act of the Scottish Parliament to make provision in relation to the carrying out of functions of local authorities and Health Boards; to make further provision about certain functions of public bodies; to make further provision in relation to certain functions under the National Health Service (Scotland) Act 1978; and for connected purposes.

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PART 1

FUNCTIONS OF LOCAL AUTHORITIES AND HEALTH BOARDS

Integration schemes

1 Integration schemes: same local authority and Health Board area

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(1) Subsection (2) applies where the area of a local authority is the same as the area of a Health Board.

(2) The local authority and the Health Board must jointly prepare an integration scheme for the area of the local authority.

(3) An integration scheme is a scheme setting out—

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(a) which integration model mentioned in subsection (4) is to apply,

(b) the functions that are to be delegated in accordance with that model,

(c) where functions are to be delegated in accordance with the model mentioned in subsection (4)(b), (c) or (d), the functions of the person to whom functions are to be delegated which are to be carried out in conjunction with the delegated functions,

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(ca) where subsection (5A) applies, a method of determining amounts to be made available by the Health Board in respect of functions that are to be delegated by the Health Board,

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(d) where subsection (5A) does not apply (or where it applies but the Health Board deems it not to apply), a method of determining payments that are to be made in respect of a delegated function by the person delegating the function to the person to whom the function is delegated,

(e) prescribed information about such other matters as may be prescribed.

(4) The integration models are—

- (a) delegation of functions by the local authority to a body corporate that is to be established by order under section 9 (an “integration joint board”) and delegation of functions by the Health Board to the integration joint board,
- (b) delegation of functions by the local authority to the Health Board,
- 5 (c) delegation of functions by the Health Board to the local authority,
- (d) delegation of functions by the local authority to the Health Board and delegation of functions by the Health Board to the local authority.
- (4A) A local authority may delegate a function under an integration scheme only if the function is conferred by an enactment listed in the schedule.
- 10 (4B) A Health Board may delegate a function under an integration scheme only if the function is prescribed.
- (4C) The Scottish Ministers may by regulations prescribe which of the functions conferred by enactments listed in the schedule local authorities must delegate under an integration scheme so far as the functions are exercisable in relation to persons of at least 18 years of age where the integration model mentioned in subsection (4)(a) or (b) is to apply under the scheme.
- 15 (4D) The Scottish Ministers may by regulations prescribe functions of Health Boards which Health Boards must delegate under an integration scheme so far as the functions are exercisable in relation to persons of at least 18 years of age where the integration model mentioned in subsection (4)(a) or (c) is to apply under the scheme.
- 20 (4E) If the integration model mentioned in subsection (4)(d) is to apply under an integration scheme either—
- (a) the local authority must delegate the functions prescribed under subsection (4C) so far as the functions are exercisable in relation to persons of at least 18 years of age, or
- 25 (b) the Health Board must delegate the functions prescribed under subsection (4D) so far as the functions are exercisable in relation to persons of at least 18 years of age.
- (4F) The Scottish Ministers may by regulations prescribe functions of Health Boards that a Health Board—
- 30 (a) must delegate under an integration scheme other than in prescribed circumstances,
- (b) may not delegate under an integration scheme in prescribed circumstances.
- (4G) The Scottish Ministers may by regulations prescribe which of the functions conferred by enactments listed in the schedule local authorities may not delegate in prescribed circumstances.
- 35 (4H) The Scottish Ministers may by regulations remove an enactment from the schedule.
- (5) A function may not be set out under subsection (3)(c) if it is a function which may not be delegated under an integration scheme.
- (5A) This subsection applies where functions that a Health Board proposes to delegate under an integration scheme—
- 40 (a) are carried out in a hospital in the area of the Health Board, and
- (b) are provided for the areas of two or more local authorities.

- (7) In this section, “Health Board” means a Health Board constituted under section 2(1)(a) of the National Health Service (Scotland) Act 1978 (c.29).

2 Integration schemes: two or more local authorities in Health Board area

- 5 (1) This section applies where the areas of two or more local authorities fall within the area of a Health Board.

- (2) Each local authority and the Health Board must comply with subsection (3) or (4).

- (3) Each local authority and the Health Board must jointly prepare an integration scheme for the area of the local authority.

- 10 (4) Two or more local authorities and the Health Board must jointly prepare an integration scheme for the areas of those local authorities.

- (4A) For the purposes of subsection (4), if the local authorities and the Health Board decide that the integration model mentioned in paragraph (c) or (d) of section 1(4) is to apply—

(a) functions are to be delegated under those models to only one of the local authorities,

15 (b) the authorities and the Health Board must set out in the integration scheme which local authority the functions are to be delegated to (the “lead authority”),

(c) paragraph (c) of section 1(4) applies as if for the words “to the local authority” there were substituted the words “and the local authority or authorities to the lead authority”, and

20 (d) paragraph (d) of section 1(4) applies as if for the words from “to”, where it first occurs, to “local” there were substituted “or authorities to the Health Board and delegation of functions by the Health Board and the local authority or authorities to the lead”.

- 25 (5) In preparing an integration scheme under subsection (3) or (4), a local authority must take into account—

(a) any other integration scheme that has been, or is being, prepared in relation to the area of the same Health Board, and

(b) the likely effect on the Health Board of both or all the schemes prepared under this section.

3 Considerations in preparing integration scheme

- 30 (1) This section applies where a local authority and a Health Board are preparing an integration scheme.

- (2) The local authority and the Health Board must have regard to—

(a) the integration planning principles (see section 4), and

35 (b) the national health and wellbeing outcomes (see section 5).

4 Integration planning principles

- (1) The integration planning principles are—

- (a) that the main purpose of services which are provided in pursuance of functions which are delegated under an integration scheme is to improve the wellbeing of service-users,
- (b) that, in so far as consistent with the main purpose, those services should be provided in a way which, so far as possible—
- (i) is integrated from the point of view of service-users,
 - (ii) takes account of the particular needs of different service-users,
 - (iii) takes account of the particular needs of service-users in different parts of the area in which the service is being provided,
 - (iiia) takes account of the dignity of service-users,
 - (iiib) takes account of the participation by service-users in the community in which service-users live,
 - (iiic) protects and improves the safety of service-users,
 - (iiid) improves the quality of the service,
 - (iv) is planned and led locally in a way which is engaged with the community (including in particular service-users, those who look after service-users and those who are involved in the provision of health or social care),
 - (v) best anticipates needs and prevents them arising, and
 - (vi) makes the best use of the available facilities, people and other resources.

- (2) In subsection (1), “service-users” means persons to whom or in relation to whom the services are provided.

5 Power to prescribe national outcomes

- (1) The Scottish Ministers may by regulations prescribe outcomes in relation to health and wellbeing.
- (2) Such outcomes are to be known as “the national health and wellbeing outcomes”.
- (3) Before making regulations under subsection (1), the Scottish Ministers must consult—
- (a) each local authority,
 - (b) each Health Board,
 - (c) each integration joint board at the time established,
 - (d) in respect of each group mentioned in subsection (4), such persons appearing to be representative of the group as the Scottish Ministers think fit.
- (4) The groups mentioned in subsection (3)(d) are—
- (a) health professionals,
 - (b) users of health care,
 - (c) carers of users of health care,
 - (d) commercial providers of health care,
 - (e) non-commercial providers of health care,
 - (f) social care professionals,

- (g) users of social care,
- (h) carers of users of social care,
- (i) commercial providers of social care,
- (j) non-commercial providers of social care.

5 **6 Consultation**

- (1) This section applies where a local authority and a Health Board are required by section 1(2) or 2(2) to prepare an integration scheme.
- (2) Before submitting the integration scheme for approval under section 7, the local authority and the Health Board must jointly consult—
 - 10 (a) such persons or groups of persons appearing to the Scottish Ministers to have an interest as may be prescribed, and
 - (b) such other persons as the local authority and the Health Board think fit.
- (3) In finalising the integration scheme, the local authority and the Health Board must take account of any views expressed by virtue of subsection (2).

15 **7 Approval of integration scheme**

- (1) After complying with section 6 and before the prescribed day, a local authority and a Health Board must jointly submit an integration scheme to the Scottish Ministers for approval.
- (2) Any information included in an integration scheme by virtue of section 1(3)(e) need not be approved by the Scottish Ministers but may be taken into account by them in deciding whether to approve the scheme.
- (3) The Scottish Ministers may—
 - 20 (a) approve the scheme submitted under subsection (1),
 - (b) refuse to approve it.
- (4) If the Scottish Ministers refuse to approve the scheme they must—
 - 25 (a) give the local authority and the Health Board reasons for the refusal (including identifying which particular parts of the scheme caused them to decide to refuse approval),
 - (b) explain how the scheme should be modified, and
 - 30 (c) specify a day by which the local authority and the Health Board must jointly modify the scheme and submit it for approval.
- (4A) Following submission of a modified scheme under subsection (4), the Scottish Ministers may—
 - 35 (a) approve the modified scheme, or
 - (b) refuse to approve it.
- (4B) Where the Scottish Ministers refuse to approve a modified scheme, the local authority and the Health Board are to be treated as if they failed before the prescribed day to submit an integration scheme under this section; and section 39 applies accordingly.

- (5) The Scottish Ministers may, on their own account or on the request of the local authority and the Health Board, specify that subsection (1) applies as if the prescribed day were such later day as the Scottish Ministers may specify.
- (6) A request under subsection (5) must be made in writing and must include the reasons for the request.
- (7) A day specified under subsection (5) is to be treated as if it were the prescribed day for the purposes of the other provisions of this Act.

8 Publication of integration scheme

As soon as practicable after an integration scheme is approved under section 7, the local authority and the Health Board must publish it.

Implementation of integration scheme

9 Functions delegated to integration joint board

- (1) This section applies where the Scottish Ministers approve under section 7 an integration scheme setting out that the integration model in section 1(4)(a) is to apply.
- (2) The Scottish Ministers may by order establish the integration joint board to which the functions are to be delegated.
- (3) If the functions are not delegated on the day specified by virtue of section 23(3A), they are delegated on the prescribed day.

10 Chief officer of integration joint board

- (1) An integration joint board is to appoint, as a member of staff, a chief officer.
- (2) Subsection (3) applies where the person to be appointed is an existing member of staff of a constituent authority.
- (3) The person is to be seconded to the board by that authority.
- (4) Where subsection (3) does not apply, the person to be appointed—
- (a) is to be appointed as a member of staff of a constituent authority, and
- (b) is then to be seconded to the board by that authority.
- (5) The Scottish Ministers may in relation to any integration joint board by order—
- (a) disapply the requirements of subsections (2) to (4), and
- (b) make provision enabling the board to employ a chief officer on such terms and conditions as the board determines.
- (6) Before appointing a person as chief officer an integration joint board is to consult each constituent authority.
- (7) The responsibilities of a chief officer are subject to the agreement of the Scottish Ministers.

11 Other staff of integration joint board

- (1) The Scottish Ministers may by order make provision enabling integration joint boards to appoint staff other than a chief officer.

- (2) Such an order may include such further provision as regards such staff as the Scottish Ministers think fit, including in particular provision as to—
- (a) the appointment of staff,
 - (b) the numbers of staff,
 - (c) the terms and conditions of staff.
- (3) Provision as to a matter mentioned in subsection (2)(a), (b) or (c) may include provision making the matter subject to the determination, direction or agreement of any person.
- (4) Without prejudice to section 49(1)(a), an order under this section may—
- (a) make provision in relation to only one integration joint board, or some integration joint boards,
 - (b) make different provision in relation to different integration joint boards.
- (5) Before making an order under this section, the Scottish Ministers must consult—
- (a) if the order relates to integration joint boards generally, each—
 - (i) local authority,
 - (ii) Health Board, and
 - (iii) integration joint board then established,
 - (b) if the order relates to one integration joint board, or some integration joint boards—
 - (i) the constituent authorities in relation to that or those boards, and
 - (ii) that or those boards, to the extent then established.

12 Integration joint boards: further provision

- (1) The Scottish Ministers may by order make provision—
- (a) about the membership of integration joint boards,
 - (b) about the proceedings of integration joint boards,
 - (c) giving integration joint boards general powers (such as powers to contract, acquire or dispose of property or rights or borrow money or incur other liabilities) in connection with the carrying out of functions conferred on them by or by virtue of this Act,
 - (d) about the supply of services or facilities to integration joint boards by a constituent authority,
 - (da) enabling integration joint boards to establish committees for any purpose,
 - (db) about such other matters relating to any such committee as the Scottish Ministers think fit,
 - (dc) enabling an integration joint board to delegate to its chief officer, any other member of its staff or any such committee functions delegated to the integration joint board in pursuance of an integration scheme,
 - (e) about any other matter relating to the establishment or operation of integration joint boards that the Scottish Ministers think fit.

- (2) Without prejudice to section 49(1)(a), an order under subsection (1) (other than an order containing provision of the type mentioned in paragraph (a) or (b) of that subsection) may—
- 5 (a) make provision in relation to only one integration joint board, or some integration joint boards,
- (b) make different provision in relation to different integration joint boards.
- (2A) Before making an order under this section, the Scottish Ministers must consult—
- (a) if the order relates to integration joint boards generally, each—
- 10 (i) local authority,
- (ii) Health Board, and
- (iii) integration joint board then established,
- (b) if the order relates to one integration joint board, or some integration joint boards—
- 15 (i) the constituent authorities in relation to that or those boards, and
- (ii) that or those boards, to the extent then established.
- (3) The Scottish Ministers may by scheme make provision about the transfer to an integration joint board of staff, property, rights, liabilities or obligations of their constituent authorities.
- (3A) Before making a scheme under subsection (3), the Scottish Ministers must consult—
- 20 (a) the integration joint board to which the scheme relates, and
- (b) the constituent authorities in relation to that board.
- (4) Before making a scheme under subsection (3) in relation to staff, the Scottish Ministers must consult in respect of each group mentioned in subsection (5), such persons appearing to be representative of the group as the Scottish Ministers think fit.
- 25 (5) The groups mentioned in subsection (4) are—
- (a) health professionals,
- (b) social care professionals,
- (c) such other groups of persons appearing to the Scottish Ministers to have an interest as may be prescribed.

30 **12A Integration joint boards: finance and audit**

- (1) The chief officer of an integration joint board has responsibility for the administration of the financial affairs of the integration joint board.
- (2) In section 106 of the Local Government (Scotland) Act 1973 (application of Part 7 of Act to bodies other than local authorities etc.)—
- 35 (a) in subsection (1), after paragraph (ba) insert—
- “(bb) an integration joint board established by order under section 9 of the Public Bodies (Joint Working) (Scotland) Act 2014 (but subject to subsection (1A)),” and
- (b) after that subsection, insert—

“(1A) Despite subsection (1), sections 95, 101A and 105A of this Act do not apply with respect to an integration joint board.”.

13 Payments to integration joint boards in respect of delegated functions

(1) Subsections (2) and (3) apply where—

(a) an integration scheme sets out that the integration model in section 1(4)(a) is to apply, and

(b) the scheme is approved by the Scottish Ministers under section 7.

(2) The local authority must make a payment to the integration joint board of the amount determined in accordance with the method set out in the scheme in relation to each function delegated by it.

(2A) Where an integration scheme contains provision of the type mentioned in section 1(3)(ca), the Health Board must set aside for use by the integration joint board an amount determined in accordance with the method set out in the scheme in relation to each function delegated by it.

(3) Where an integration scheme contains provision of the type mentioned in section 1(3)(d), the Health Board must make a payment to the integration joint board of the amount determined in accordance with the method set out in the scheme in relation to each function delegated by it.

14 Functions delegated to local authority or Health Board

(1) This section applies where the Scottish Ministers approve under section 7 an integration scheme setting out that the integration model in section 1(4)(b), (c) or (d) is to apply.

(1A) If the functions are not delegated on the day specified by virtue of section 23(3A), they are delegated on the prescribed day.

(2) Before the functions are delegated, the local authority and the Health Board must jointly establish a committee (an “integration joint monitoring committee”) for the purpose of monitoring the carrying out of the integration functions for the area of the local authority.

15 Transfer of staff where functions delegated to local authority or Health Board

(1) The Scottish Ministers may by scheme make provision about the transfer of staff from a person who is to delegate functions under an integration scheme falling within subsection (2) to the person to whom the functions are to be delegated.

(1A) Before making a scheme under subsection (1) in relation to staff, the Scottish Ministers must consult in respect of each group mentioned in subsection (1B), such persons appearing to be representative of the group as the Scottish Ministers think fit.

(1B) The groups mentioned in subsection (1A) are—

(a) health professionals,

(b) social care professionals,

(c) such other groups of persons appearing to the Scottish Ministers to have an interest as may be prescribed.

- (2) An integration scheme falls within this subsection if it sets out that the integration model in section 1(4)(b), (c) or (d) is to apply.
- (3) Before making a scheme under subsection (1), the Scottish Ministers must consult—
- 5 (a) the person who is to delegate functions under an integration scheme falling within subsection (2), and
- (b) the person to whom the functions are to be delegated.

16 Integration joint monitoring committees: further provision

- (1) The Scottish Ministers may by order make provision about—
- 10 (a) the establishment of integration joint monitoring committees,
- (b) the membership of integration joint monitoring committees,
- (c) the proceedings of integration joint monitoring committees,
- (d) any other matter relating to the operation of integration joint monitoring committees that the Scottish Ministers think fit.
- (2) Without prejudice to section 49(1)(a), an order under subsection (1) may make different provision in relation to different integration joint monitoring committees.
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17 Payments to Health Boards in respect of delegated functions

- (1) Subsection (2) applies where—
- 20 (a) an integration scheme sets out that the integration model in section 1(4)(b) or (d) is to apply, and
- (b) the scheme is approved by the Scottish Ministers under section 7.
- (2) The local authority must make a payment to the Health Board of the amount determined in accordance with the method that is set out in the scheme in relation to each function delegated to the Health Board.

18 Payments to local authorities in respect of delegated functions

- 25 (1) This section applies where—
- (a) an integration scheme sets out that the integration model in section 1(4)(c) or (d) is to apply, and
- (b) the scheme is approved by the Scottish Ministers under section 7.
- 30 (1A) Where an integration scheme contains provision of the type mentioned in section 1(3)(ca), the Health Board must set aside for use by the local authority an amount determined in accordance with the method set out in the scheme in relation to each function delegated to the local authority.
- 35 (2) Where an integration scheme contains provision of the type mentioned in section 1(3)(d), the Health Board must make a payment to the local authority of the amount determined in accordance with the method set out in the scheme in relation to each function delegated to the local authority.

- (3) Each local authority which delegates functions to another local authority (the “lead authority”) under the scheme must make a payment to the lead authority of the amount determined in accordance with the method set out in the scheme in relation to each function delegated by the authority to the lead authority.

5 **18A Health funding: further provision**

- (1) This section applies where under section 13(2A) or 18(1A) a Health Board is required to set aside an amount in respect of certain functions delegated to an integration authority.
- (2) The integration authority may by direction require a Health Board—
- 10 (a) to carry out a function delegated to the integration authority by the Health Board and in relation to which amounts have been set aside, and
- (b) to use an amount of the set aside amount specified in the direction (the “specified amount”) for that purpose.
- (3) If the integration authority gives a direction under subsection (2) and, despite the direction, the Health Board does not use all of the specified amount, the integration authority may require the Health Board to pay to it the unused amount of the specified amount.
- 15 (4) If the integration authority gives a direction under subsection (2) and, despite the direction, the Health Board requires to use more than the specified amount, the Health Board may require the integration authority to reimburse it for the additional amount used.
- 20 (5) The Health Board must give reports to the integration authority about such matters relating to the amounts set aside as the integration authority may specify.
- (6) Reports under subsection (5) must be given at such times and in relation to such periods as the integration authority may specify.

25 **19 Transfer of staff: effect on contract of employment**

- (1) This section applies where by virtue of section 12(3), 15(1) or 36(3) a person is to be transferred from the employment of one person (“the original employer”) to another (“the new employer”).
- 30 (2) If, before the day of the transfer, the person informs the original employer that the person does not wish to become an employee of the new employer, the person’s contract of employment is terminated on the day before the day of the transfer.
- (3) Otherwise—
- 35 (a) the contract of employment between the person and the original employer has effect on and after the day of the transfer as if originally made between the person and the new employer,
- (b) the rights, powers, duties and liabilities of the original employer under or in connection with the contract of employment are by virtue of this section transferred to the new employer on the day of the transfer, and
- 40 (c) anything done before the day of the transfer by or in relation to the original employer in respect of the contract of employment or the person is to be treated on and after that day as having been done by or in relation to the new employer.
- (3A) Nothing in subsection (3)—

(a) imposes on the new employer any liability for a share in any deficit in a pension scheme of the original employer that—

- (i) is attributable to the person's membership of the scheme, and
- (ii) accrued before the day of the transfer, or

(b) confers any right on the new employer in respect of a share in any surplus in such a pension scheme that is so attributable and that so accrued.

(4) A person is not to be treated for any purpose as being dismissed by reason of the operation of any provision of this section in relation to the person.

(5) Nothing in this section affects any right of a person to terminate the person's contract of employment if a substantial detrimental change in the person's working conditions is made.

(6) No such right arises by reason only that, by virtue of this section, the identity of the person's employer changes.

20 Co-operation

(1) This section applies where the Scottish Ministers approve under section 7 one or more schemes prepared by virtue of section 2(3) or (4) in relation to the same Health Board.

(2) The persons mentioned in subsection (3) must co-operate with each other in relation to the efficient and effective use of their resources (including in particular buildings, staff and equipment) in pursuance of the scheme or schemes.

(3) The persons are—

- (a) each local authority,
- (b) the Health Board.

20A Carrying out of functions conferred on officers of local authorities

(1) This section applies where a function conferred by an enactment on an officer of a local authority relates to a function delegated to an integration authority under an integration scheme.

(2) Where the integration authority is an integration joint board, the function is deemed to have been conferred also on an officer of the Health Board and any other local authorities that are the constituent authorities of the integration joint board.

(3) Where the integration authority is a local authority or Health Board, the function is deemed to have been conferred also on an officer of the Health Board and any other local authority which prepared the integration scheme.

20B Carrying out of functions conferred on officers of Health Boards

(1) This section applies where a function conferred by an enactment on an officer of a Health Board relates to a function delegated to an integration authority under an integration scheme.

(2) Where the integration authority is an integration joint board, the function is deemed to have been conferred also on an officer of the local authority or authorities that are the constituent authorities of the integration joint board.

- (3) Where the integration authority is a local authority or Health Board, the function is deemed to have been conferred also on an officer of the local authority or authorities which prepared the integration scheme.

Carrying out of delegated functions

21 Effect of delegation of functions

- (1) This section applies where a function is delegated in pursuance of an integration scheme.
- (2) The integration authority to which the function is delegated is to carry out the function.
- (3) The integration authority has all of the powers and duties from time to time applying in connection with the carrying out of the function.
- (4) Despite subsection (2), the delegation of the function in pursuance of an integration scheme does not prevent the carrying out of the function by the person by whom the delegation is made.
- (5) The Scottish Ministers may by order provide that an integration authority which is an integration joint board must or must not exercise a power of the type mentioned in subsection (3) in connection with the carrying out of a function specified in the order.

22 Directions by integration authority

- (1) Where the integration authority is an integration joint board, it must give a direction to a constituent authority to carry out on its behalf each function delegated to the integration authority.
- (2) Where the integration authority is a local authority or a Health Board, it may give a direction to the Health Board or local authority which prepared the integration scheme by virtue of which it is the integration authority to carry out on its behalf any function delegated to the integration authority.
- (3) A person to whom a direction under this section may be given must provide the integration authority with such information as the integration authority may reasonably require for the purpose of its deciding—
- (a) whether to give the direction,
 - (b) the content of the direction.
- (4) A direction under this section may be given to more than one person in relation to the same function.
- (5) If a direction such as is mentioned in subsection (4) is given, the direction may—
- (a) require the persons to carry out the function jointly or only in so far as is specified in the direction,
 - (b) require each person to carry out the function in relation to an area specified in the direction,
 - (c) require each person to do particular things in relation to the function.

22A Section 22: supplementary

- (1) A direction under section 22—

- (a) must set out, or set out a method of determining, payments that are to be made by the integration authority to the person who is to carry out the function on its behalf,
- (b) may—
- 5 (i) regulate the manner in which the function is to be carried out,
- (ii) make such supplementary, incidental or consequential provision as the integration authority considers appropriate.
- (2) The provision referred to in subsection (1)(b)(ii) may include in particular the imposition on the person who is to carry out the function of requirements—
- 10 (a) to provide information to the integration authority,
- (b) to take action to enable the integration authority to comply with any order of a court made against it in connection with the carrying out of the function,
- (b) to reimburse the integration authority in relation to any liabilities incurred by the integration authority in connection with the carrying out of the function.
- 15 (3) The integration authority must make payments in accordance with the provision included in the direction by virtue of subsection (1)(a).
- (4) A person to whom a direction under section 22 is given must comply with the direction.
- (5) A direction under section 22—
- 20 (a) may vary or revoke an earlier direction under that section given by the same integration authority,
- (b) must be in writing.
- (6) If the conditions in subsection (7) are met, the Scottish Ministers may by order provide that an integration authority which is an integration joint board—
- 25 (a) may decide not to give a direction under section 22 in relation to the carrying out of a function specified in the order, or
- (b) may give a direction under that section, despite the making of the order.
- (7) The conditions are—
- 30 (a) that the Scottish Ministers receive a written application from the constituent authorities requesting that an order be made in relation to the functions specified in the application, and
- (b) that the Scottish Ministers consider that the making of an order in relation to some or all of those functions would improve compliance with the national health and wellbeing outcomes.
- 35 (8) If the Scottish Ministers do not consider under subsection (7)(b) that the making of an order under subsection (6) would improve compliance with the national health and wellbeing outcomes in relation to any functions, they need not include those functions in the order.

Strategic planning etc.

23 Requirement to prepare strategic plans

- 40 (1) The integration authority for the area of a local authority must prepare strategic plans in accordance with this section.

- (2) A strategic plan is a document—
- (a) setting out the arrangements for the carrying out of the integration functions for the area of the local authority over the period of the plan,
 - (b) setting out how those arrangements are intended to achieve, or contribute to achieving, the national health and wellbeing outcomes, and
 - (c) including such other material as the integration authority thinks fit.
- (3) The provision required to be included in a strategic plan by virtue of subsection (2)(a) is to include provision—
- (a) dividing the area of the local authority into two or more localities, and
 - (b) setting out separately arrangements for the carrying out of the integration functions in relation to each such locality.
- (3A) If the functions of the integration authority are not to be delegated to the authority on the day prescribed under section 9(3) or, as the case may be, section 14(1A), the first strategic plan must specify the day on which functions are to be delegated to the authority.
- (4) The first strategic plan of an integration authority is to be prepared before the integration start day.
- (6) In this section, “integration start day” means—
- (a) in relation to an integration authority which is an integration joint board, the day on which functions are delegated to the authority by virtue of subsection (3A) or, as the case may be, section 9(3),
 - (b) in relation to any other integration authority, the day on which functions are delegated by virtue of subsection (3A) or, as the case may be, section 14(2) to, or to the constituent authorities of, the integration authority.

24 Considerations in preparing strategic plan

- (1) This section applies where an integration authority in relation to the area of a local authority is preparing a strategic plan.
- (2) The integration authority must have regard to—
- (a) the integration delivery principles (see section 25), and
 - (b) the national health and wellbeing outcomes (see section 5).
- (3) The integration authority must have regard to the effect which any arrangements which it is considering setting out in the strategic plan in pursuance of section 23(2)(a) may have on services, facilities or resources—
- (a) utilised by arrangements set out in pursuance of that section in a strategic plan prepared by another integration authority,
 - (b) which would be utilised by arrangements which another integration authority is considering setting out in pursuance of that section in a strategic plan which it is preparing.
- (4) The references in subsections (3)(a) and (b) to a strategic plan are to a strategic plan relating to the same period as, or relating to part of the same period as, the strategic plan which is being prepared by the integration authority.

25 Integration delivery principles

- (1) The integration delivery principles are—
- (a) that the main purpose of services which are provided in pursuance of functions which are delegated under an integration scheme is to improve the wellbeing of service-users,
 - (b) that, in so far as consistent with the main purpose, those services should be provided in a way which, so far as possible—
 - (i) is integrated from the point of view of service-users,
 - (ii) takes account of the particular needs of different service-users,
 - (iii) takes account of the particular needs of service-users in different parts of the area in which the service is being provided,
 - (iiia) takes account of the dignity of service-users,
 - (iiib) takes account of the participation by service-users in the community in which service-users live,
 - (iiic) protects and improves the safety of service-users,
 - (iiid) improves the quality of the service,
 - (iv) is planned and led locally in a way which is engaged with the community (including in particular service-users, those who look after service-users and those who are involved in the provision of health or social care),
 - (v) best anticipates needs and prevents them arising, and
 - (vi) makes the best use of the available facilities, people and other resources.
- (2) In subsection (1), “service-users” means persons to whom or in relation to whom the services are provided.

26 Establishment of strategic planning group

- (1) Before preparing its first strategic plan, an integration authority in relation to the area of a local authority is to establish a group (its “strategic planning group”) comprising—
- (a) where the integration authority is an integration joint board—
 - (i) at least one person nominated by the Health Board which is a constituent authority in relation to the integration joint board,
 - (ii) where one local authority is a constituent authority in relation to the integration joint board, at least one person nominated by it,
 - (iii) where two or more local authorities are constituent authorities in relation to the integration joint board, at least one person nominated by the authorities,
 - (b) where the integration authority is a Health Board, at least one person nominated by the local authority or authorities with which the integration authority prepared the integration scheme in pursuance of which the integration authority acquired its functions,
 - (c) where the integration authority is a local authority, at least one person nominated by the Health Board with which the integration authority prepared the integration scheme in pursuance of which the integration authority acquired its functions,

(d) one person in respect of each of the groups mentioned in subsection (2), being a person who the integration authority considers to be representative of that group, and

(e) such other persons as the integration authority considers appropriate.

5 (2) The groups referred to in subsection (1)(d) are such groups of persons appearing to the Scottish Ministers to have an interest as may be prescribed.

(2A) The integration authority is to determine—

(a) the number of members of its strategic planning group,

10 (b) so far as not set out in this section, the processes for appointment, removal and replacement of members.

(2B) The integration authority may—

(a) appoint members of its strategic planning group from persons nominated under subsection (1),

15 (b) in such circumstances as the authority considers appropriate, remove persons appointed under paragraph (a) from membership of the group,

(c) appoint members in place of members who resign or are removed from membership of the group.

(2C) A constituent authority may—

(a) remove from its strategic planning group a member appointed to represent it,

20 (b) nominate under subsection (1) another person in place of a member of the group appointed to represent it.

(2D) A member of a strategic planning group may resign at any time.

(2E) During the period to which any strategic plan of an integration authority relates, its strategic planning group is also to comprise a person to represent the interests of each locality set out in the plan in pursuance of section 23(3)(a).

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(2F) It is for the integration authority to—

(a) decide which persons are suitable to represent the interests of a locality, and

(b) select the representative.

(2G) An integration authority may under subsection (2F)(b) select a single person in respect of two or more localities.

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(2H) The validity of anything done by an integration authority's strategic planning group is not affected by any vacancy in its membership.

(3) The procedure of an integration authority's strategic planning group is to be such as the authority determines.

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(4) An integration authority may pay to members of its strategic planning group such expenses and allowances as the authority determines.

27 Preparation of strategic plan

(1) This section applies where an integration authority in relation to the area of a local authority is preparing a strategic plan.

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(1A) The integration authority is to—

- (a) prepare proposals for what the strategic plan should contain, and
 - (b) seek the views of its strategic planning group on the proposals.
- (2) Taking account of any views expressed by virtue of subsection (1A)(b), the integration authority is then to—
- (a) prepare a first draft of the strategic plan, and
 - (b) seek the views of its strategic planning group on the draft.
- (3) Taking account of any views expressed by virtue of subsection (2)(b), the integration authority is then to—
- (a) prepare a second draft of the strategic plan,
 - (b) send a copy to—
 - (i) the persons mentioned in subsection (4), and
 - (ii) such other persons as it considers appropriate, and
 - (c) invite the recipients to express views (within such period as the integration authority considers appropriate) on the draft.
- (4) The persons referred to in subsection (3)(b)(i) are—
- (a) where the integration authority is an integration joint board, each constituent authority,
 - (b) where the integration authority is a local authority, the Health Board with which the local authority prepared the integration scheme in pursuance of which the integration authority acquired its delegated functions,
 - (c) where the integration authority is a Health Board, the local authority with which the Health Board prepared the integration scheme in pursuance of which the integration authority acquired its delegated functions, and
 - (d) persons who the integration authority considers to be representative of each of the groups mentioned in subsection (5).
- (5) The groups referred to in subsection (4)(d) are such groups of persons appearing to the Scottish Ministers to have an interest as may be prescribed.
- (6) In finalising the strategic plan, the integration authority must take account of any views expressed by virtue of subsection (3)(c).

27A Provision of information for purpose of preparing strategic plan

- (1) A constituent authority must provide an integration authority which is an integration joint board with such information as the authority may reasonably require for the purpose of preparing a strategic plan.
- (2) The person mentioned in subsection (3) must provide an integration authority which is a Health Board or a local authority with such information as the integration authority may reasonably require for the purpose of preparing a strategic plan.
- (3) That person is the local authority or the Health Board with which the integration authority prepared the integration scheme in pursuance of which the integration authority acquired its delegated functions.

29 Publication of strategic plans

- (1) As soon as practicable after the finalisation of the plan under section 27, an integration authority must publish its strategic plan.
- (3) At the same time as publishing a strategic plan, an integration authority must also publish a statement of the action which it took in pursuance of section 27.

30 Significant decisions outside strategic plan: public involvement

- (1) This section applies where the integration authority for the area of a local authority—
- (a) proposes to take a significant decision about the arrangements for the carrying out of the integration functions for the area of the authority, and
 - (b) intends the decision to take effect other than by virtue of revising its strategic plan under section 30A.
- (2) In subsection (1)(a), “significant decision” means a decision which the integration authority considers might significantly affect the provision of a service provided in pursuance of the integration functions in the area of the local authority.
- (3) The integration authority must—
- (a) seek and have regard to the views of its strategic planning group, and
 - (b) take such action as it thinks fit with a view to securing that persons mentioned in subsection (4) are involved in and consulted on the decision.
- (4) Those persons are users of the service which is being or may be provided.

30A Review of strategic plan

- (1) An integration authority—
- (a) must before the expiry of the relevant period review the effectiveness of its strategic plan,
 - (b) may from time to time carry out such a review.
- (2) In carrying out a review under subsection (1), the integration authority must—
- (a) have regard to—
 - (i) the integration delivery principles, and
 - (ii) the national health and wellbeing outcomes, and
 - (b) seek and have regard to the views of its strategic planning group on—
 - (i) the effectiveness of the arrangements for the carrying out of the integration functions in the area of the local authority, and
 - (ii) whether the integration authority should prepare a replacement strategic plan.
- (3) Following a review under subsection (1), an integration authority may prepare a replacement strategic plan.
- (4) Subject to subsection (2), the process of such a review is to be such as the integration authority determines.

- (5) A constituent authority must provide an integration authority which is an integration joint board with such information as the integration authority may reasonably require for the purpose of carrying out a review under subsection (1).
- 5 (6) The person mentioned in subsection (7) must provide an integration authority which is a Health Board or a local authority with such information as the integration authority may reasonably require for the purpose of carrying out a review under subsection (1).
- (7) That person is the local authority or the Health Board with which the integration authority prepared the integration scheme in pursuance of which the integration authority acquired its delegated functions.
- 10 (8) A strategic plan prepared in pursuance of this section must specify a day on which the period of the plan is to begin.
- (9) In subsection (1), “relevant period”, in relation to an integration authority, means—
- (a) the period of 3 years beginning with the integration start day (as defined in section 23(4)), and
- 15 (b) each subsequent period of 3 years beginning with—
- (i) where a replacement strategic plan is prepared following a review under subsection (1), the day specified under subsection (8),
- (ii) where no replacement strategic plan is prepared following such a review, the day on which the integration authority decides not to prepare a revised strategic plan.
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30B Requirement to prepare replacement strategic plan

- (1) This section applies where the integration authority in relation to the area of a local authority is an integration joint board.
- 25 (2) If it appears to a constituent authority that the strategic plan is preventing, or is likely to prevent, the constituent authority from carrying out any of its functions appropriately or in a way which is consistent with the integration delivery principles and the national health and wellbeing outcomes, the constituent authorities acting jointly may direct the integration authority to prepare a replacement strategic plan.
- (3) A direction under subsection (2) must—
- 30 (a) be in writing,
- (b) include a statement summarising the reasons for giving it.
- (4) A direction under subsection (2) must specify—
- (a) a day by which the replacement strategic plan must be prepared, and
- (b) a day on which the period of the plan is to begin.
- 35 (5) The constituent authorities acting jointly may by direction substitute a different day for a day specified under subsection (4).
- (6) An integration authority must comply with a direction given to it under subsection (2).

30C Strategic plan: annual financial statement

- (1) Each integration authority must publish an annual financial statement—
- 40 (a) when it publishes its first strategic plan, and

(b) each year after that.

- (2) An annual financial statement must set out in relation to the strategic plan to which it relates the amount that the integration authority intends to spend in implementation of the plan.

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Carrying out of integration functions

31 Carrying out of integration functions: general

In carrying out an integration function for the area of a local authority, a person must have regard to—

- (a) the integration delivery principles (see section 25), and
(b) the national health and wellbeing outcomes (see section 5).

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32 Carrying out of integration functions: localities

- (1) This section applies where—

(a) an integration authority carrying out an integration function for the area of a local authority proposes to take a decision which the authority considers might significantly affect the provision in a locality of the area of a service provided in pursuance of the function, or

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(b) a person carrying out an integration function for the area of a local authority proposes to take a decision which the person considers might significantly affect the provision in a locality of the area of a service provided in pursuance of the function.

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- (2) In subsection (1), “locality” means a locality of an area as set out in the strategic plan in pursuance of section 23(3)(a).

- (3) The integration authority or, as the case may be, person must take such action as the authority or person thinks fit with a view to securing that the groups mentioned in subsection (4) are involved in and consulted on the decision.

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- (4) The groups referred to in subsection (3) are such groups of persons appearing to the Scottish Ministers to have an interest as may be prescribed.

- (5) The integration authority may pay to members of groups consulted under subsection (3) such expenses and allowances as the authority determines.

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33 Integration authority: performance report

- (1) Each integration authority must prepare a performance report for the reporting year.

- (2) A performance report is a report setting out an assessment of performance during the reporting year to which it relates in carrying out the integration functions for the area of the local authority.

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- (3) The Scottish Ministers may by regulations prescribe the form and content of performance reports.

- (3A) An integration authority must—

(a) publish each performance report before the expiry of the period of 4 months beginning with the end of the reporting year, and

(b) provide a copy of it to the persons mentioned in subsection (3B).

(3B) Those persons are—

(a) where the integration authority is an integration joint board, each constituent authority,

(b) where the integration authority is a local authority and a Health Board acting jointly, the integration joint monitoring committee,

(c) where the integration authority is a Health Board or a local authority—

(i) the integration joint monitoring committee, and

(ii) the other authority.

(3C) A constituent authority must provide an integration authority which is an integration joint board with such information as the authority may reasonably require for the purpose of preparing a performance report.

(3D) The other authority must provide an integration authority which is a Health Board or a local authority with such information as the integration authority may reasonably require for the purpose of preparing a performance report.

(4) In this section—

“other authority” means the local authority or the Health Board with which the integration authority prepared the integration scheme in pursuance of which the integration authority acquired its delegated functions,

“reporting year”, in relation to an integration authority, means—

(a) the period beginning with the date prescribed under section 9(3) or, as the case may be, 14(1A) and ending on the first anniversary of that date, and

(b) each subsequent period of a year.

Reports by integration joint monitoring committee

33A Reports

(1) An integration joint monitoring committee may give reports to the integration authority on any aspect of the carrying out of the integration functions for the area of the local authority for which the integration joint monitoring committee is established.

(2) A report may include recommendations as to how those integration functions should be carried out in future.

(3) Where a report is given to an integration authority under subsection (1), the integration authority must—

(a) have regard to the report and any recommendations included in it,

(b) take such action as the authority considers necessary, and

(c) if the report includes recommendations, give the integration joint monitoring committee a response to them in writing as soon as is reasonably practicable after the authority is given the report.

(4) An integration joint monitoring committee may publish—

(a) reports given under subsection (1),

(b) responses given under subsection (3)(c).

- (5) The local authority and the Health Board which prepared the integration scheme by virtue of which the integration joint monitoring committee is established must provide the committee with such reports, information or other assistance as the committee may reasonably require for the purpose of preparing a report under subsection (1).

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Review of integration scheme

33B Review of integration scheme

- (1) This section applies where an integration scheme has been approved by the Scottish Ministers under section 7.
- (2) The local authority and the Health Board must carry out a review of the scheme before the expiry of the relevant period for the purpose of identifying whether any changes to the scheme are necessary or desirable.
- (3) Sections 3 and 6 apply to a review of an integration scheme under subsection (2) as they apply to the preparation of an integration scheme (but as if the words “Before submitting the integration scheme for approval under section 7,” in section 6(2) were omitted).
- (4) After taking account of any views of persons consulted under section 6 (as applied by subsection (3)), the local authority and the Health Board must decide whether any changes to the scheme are necessary or desirable.
- (5) In subsection (2), the “relevant period” means—
- (a) the period of 5 years beginning with the day on which the scheme was approved under section 7, and
 - (b) each subsequent period of 5 years beginning with—
 - (i) where the local authority and the Health Board vary the scheme under section 34, the day specified under subsection (5) of that section,
 - (ii) where the local authority and the Health Board decide no changes to the scheme are necessary or desirable, the day on which that decision is made.

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33C Requirement to review integration scheme

- (1) This section applies where an integration scheme has been approved by the Scottish Ministers under section 7.
- (2) On the request of the local authority or the Health Board, the local authority and the Health Board must jointly carry out a review of the scheme for the purpose of identifying whether any changes to the scheme are necessary or desirable.
- (3) Where matters are prescribed under section 1(3)(e), the Scottish Ministers may require the local authority and the Health Board jointly to carry out a review of the integration scheme for the purpose of identifying whether any changes to the scheme are necessary or desirable.
- (4) Sections 3 and 6 apply to a review of an integration scheme under subsection (2) or (3) as they apply to the preparation of an integration scheme (but as if the words “Before submitting the integration scheme for approval under section 7,” in section 6(2) were omitted).
- (5) After taking account of any views of persons consulted under section 6 (as applied by subsection (3)), the local authority and the Health Board must decide whether any changes to the scheme are necessary or desirable.

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34 Revised integration scheme

- (1) This section applies where a local authority and a Health Board decide under section 33B or 33C that changes to an integration scheme are necessary or desirable.
- (2) The local authority and the Health Board may vary the scheme by jointly preparing a revised integration scheme.
- (3) A revised integration scheme may—
- (a) set out additional functions that are to be delegated under the scheme as mentioned in section 1(3)(b),
 - (b) set out functions that are delegated by virtue of the integration scheme approved under section 7 that are no longer to be delegated,
 - (c) if the integration scheme delegates functions in accordance with the integration model mentioned in section 1(4)(b), (c) or (d), set out functions that are to be carried out in conjunction with the delegated functions,
 - (d) if the integration scheme delegates functions in accordance with the integration model mentioned in section 1(4)(b), (c) or (d), set out functions that are no longer to be carried out in conjunction with the delegated functions,
 - (da) change the method of determining amounts to be made available as mentioned in section 1(3)(ca),
 - (e) change the method of determining payments as mentioned in section 1(3)(d),
 - (f) change or remove any information included in the plan by virtue of section 1(3)(e).
- (3A) Before complying with subsection (4) or (as the case may be) (4A), the local authority and the Health Board must jointly consult—
- (a) such persons or groups of persons appearing to the Scottish Ministers to have an interest as may be prescribed, and
 - (b) such other persons as the local authority and the Health Board think fit.
- (3B) In finalising the revised integration scheme, the local authority and the Health Board must take account of any views expressed by virtue of subsection (3A).
- (4) If a revised integration scheme includes provision of the type mentioned in any of paragraphs (a) to (e) of subsection (3), the local authority and the Health Board must jointly submit the revised scheme to the Scottish Ministers for approval under section 7.
- (4A) If a revised integration scheme includes provision of the type mentioned in paragraph (f) of subsection (3), the local authority and the Health Board must jointly give notice of the change to the Scottish Ministers.
- (5) A revised integration scheme takes effect on such day as may be specified by the Scottish Ministers.
- (6) As soon as practicable after a revised integration scheme takes effect, the local authority and the Health Board must publish it.

35 New integration scheme

- (1) This section applies where a local authority and a Health Board decide under section 33B or 33C that changes to an integration scheme are necessary or desirable.

- (2) If the local authority and the Health Board wish to change any of the matters mentioned in subsection (3) they must prepare a new integration scheme under section 1 or (as the case may be) 2(2).
- (3) The matters are—
- 5 (a) the local authority which prepared the integration scheme,
 (b) the integration model.
- (4) This Act applies in relation to a new integration scheme prepared by virtue of subsection (2) as it applies in relation to an integration scheme which requires to be prepared by section 1 or (as the case may be) 2(2).

10 **36 Power to make provision in consequence of new integration scheme**

- (1) This section applies where the Scottish Ministers approve an integration scheme which has been prepared by virtue of section 35.
- (2) In consequence of the replacement of an integration scheme by a new integration scheme, the Scottish Ministers may by order provide for the winding-up of an
15 integration joint board.
- (3) In consequence of the replacement of an integration scheme by a new integration scheme, the Scottish Ministers may by scheme make such provision about the transfer of staff, property, rights, liabilities or obligations of an integration joint board, a local authority or a Health Board as they consider necessary.
- 20 (4) Before making a scheme under subsection (3), the Scottish Ministers must consult—
- (a) the person from whom it is proposed to transfer staff, and
- (b) the person to whom it is proposed that the staff be transferred.

Supplementary

25 **37 Information-sharing**

- (1) Where a local authority and a Health Board are jointly preparing an integration scheme, each of them may disclose information to the other for or in relation to the purpose of preparing the scheme.
- (2) Where two or more local authorities and a Health Board are jointly preparing an
30 integration scheme, each of them may disclose information to any of the others for or in relation to the purpose of preparing the scheme.
- (3) A person mentioned in subsection (4) may disclose information to any other person mentioned in that subsection for or in relation to any of the purposes mentioned in subsection (5).
- (4) The persons are—
- 35 (a) a local authority,
 (b) a Health Board,
 (c) an integration joint board.
- (5) The purposes are—
- 40 (a) functions that are delegated by virtue of an integration scheme approved under section 7,

- (b) functions that are to be carried out in conjunction with delegated functions,
 - (c) the preparation of a strategic plan.
- (6) Subsections (1) to (3) apply despite any duty of confidentiality owed to any person in respect of the information by the person disclosing the information.

5 **38 Grants to local authorities**

- (1) The Scottish Ministers may make a grant to a local authority in respect of costs incurred by the authority by virtue of this Part.
- (2) The payment of a grant under subsection (1) may be made subject to such conditions (including conditions as to repayment) as the Scottish Ministers may determine.

10 **39 Default power of Scottish Ministers**

- (1) Subsection (2) applies where a local authority and a Health Board fail before the day prescribed for the purposes of section 7, or the day specified under subsection (4)(c) of that section, to submit an integration scheme for the approval of the Scottish Ministers under that section.

- 15 (2) The Scottish Ministers may—

- (a) specify functions of the local authority and the Health Board which are to be delegated to an integration joint board,
- (b) by order establish the integration joint board to which the functions are to be delegated,
- 20 (c) require the local authority and the Health Board to delegate the specified functions to the integration joint board before the prescribed day,
- (d) require the local authority and the Health Board to make such payments to the integration joint board as the Scottish Ministers may specify, and
- 25 (e) require the local authority and the Health Board to comply with such other requirements in relation to the functions as the Scottish Ministers may specify.

40 Directions

- (1) The Scottish Ministers may give directions to a local authority in relation to the carrying out of—

- (a) functions conferred on it by this Act,
- 30 (b) functions delegated to it in pursuance of an integration scheme,
- (c) functions specified in the scheme that are to be carried out in conjunction with those functions.

- (2) The Scottish Ministers may give directions to a Health Board in relation to the carrying out of—

- 35 (a) functions conferred on it by this Act,
- (b) functions delegated to it in pursuance of an integration scheme,
- (c) functions specified in the scheme that are to be carried out in conjunction with those functions.

- (3) The Scottish Ministers may give directions to an integration joint board in relation to the carrying out of—
- (a) functions conferred on it by this Act,
 - (b) functions delegated to it in pursuance of an integration scheme.
- 5 (4) A local authority, a Health Board or an integration joint board must comply with a direction given to it under this section.
- (5) Directions under this section—
- (a) may vary or revoke earlier directions under this section,
 - (b) must be in writing.
- 10 (6) The Scottish Ministers may not under subsection (1) or (2) give a direction requiring a local authority or Health Board to make a written application of the type mentioned in section 22A.

41 Guidance

- 15 (1) A person mentioned in subsection (2) must have regard to any guidance issued by the Scottish Ministers about its functions under or in relation to this Act.
- (2) Those persons are—
- (a) a local authority,
 - (b) a Health Board,
 - (c) an integration joint board,
 - 20 (d) an integration joint monitoring committee.

41A Social Care and Social Work Improvement Scotland

In section 53 of the Public Services Reform (Scotland) Act 2010 (inspections by Social Care and Social Work Improvement Scotland)—

- (a) in subsection (1), after paragraph (b), add—

25 “(c) where social services, services provided under the health service or services provided by an independent health care service are provided in pursuance of an integration scheme approved under section 7 of the Public Bodies (Joint Working) (Scotland) Act 2014 (“the 2014 Act”), the co-ordination of those services.”,

- 30 (b) in subsection (2), after paragraph (e), add—

“(f) where the inspection is carried out under subsection (1)(c)—

(i) reviewing and evaluating the extent to which the social service is complying with the integration delivery principles and contributing to achieving the national health and wellbeing outcomes,

35 (ii) reviewing and evaluating the extent to which the co-ordination of social services, services provided under the health service and services provided by an independent health care service is complying with the integration delivery principles and contributing to achieving the national health and wellbeing outcomes,

(iii) reviewing and evaluating the effectiveness of a strategic plan prepared under section 23 of the 2014 Act in complying with the integration delivery principles and contributing to achieving the national health and wellbeing outcomes,

5 (iv) encouraging improvement in the extent to which implementation of a strategic plan prepared under section 23 of the 2014 Act complies with the integration delivery principles and contributes to achieving the national health and wellbeing outcomes, and

10 (v) enabling consideration as to the need for any recommendations to be prepared as to any such improvement to be included in the report prepared under section 57.”, and

(c) after subsection (6), add—

“(7) In this section—

15 “independent health care service” has the meaning given by section 10F(1) of the National Health Service (Scotland) Act 1978;

“integration delivery principles” has the meaning given by section 25 of the 2014 Act.”.

41B Healthcare Improvement Scotland

(1) The National Health Service (Scotland) Act 1978 is amended as follows.

20 (2) In section 10I (Healthcare Improvement Scotland: inspection of services provided under the health service)—

(a) after subsection (1), insert—

25 “(1A) Where a service provided under the health service is provided by virtue of an integration scheme approved under section 7 of the Public Bodies (Joint Working) (Scotland) Act 2014 (“the 2014 Act”), HIS may inspect the service for any of the purposes mentioned in subsection (1B).

(1B) The purposes are—

30 (a) reviewing and evaluating the extent to which the service is complying with the integration delivery principles and contributing to achieving the national health and wellbeing outcomes,

(b) reviewing and evaluating the extent to which the co-ordination of services provided under the health service and social services is complying with the integration delivery principles and contributing to achieving the national health and wellbeing outcomes,

35 (c) reviewing and evaluating the effectiveness of a strategic plan prepared under section 23 of the 2014 Act in complying with the integration delivery principles and contributing to achieving the national health and wellbeing outcomes,

40 (d) encouraging improvement in the extent to which implementation of a strategic plan prepared under section 23 of the 2014 Act complies with the integration delivery principles and contributes to achieving the national health and wellbeing outcomes, and

(e) enabling consideration as to the need for any recommendations to be prepared as to any such improvement to be included in the report prepared under section 10N.”, and

(b) after subsection (2), insert—

5 “(3) In this section—

“integration delivery principles” has the meaning given by section 25 of the 2014 Act;

“social services” has the meaning given by section 46 of the Public Services Reform (Scotland) Act 2010.”.

10 (3) In section 10J (inspections of independent health care services)—

(a) in subsection (1), after paragraph (b), add—

15 “(c) where services provided by an independent health care service and social services are provided in pursuance of an integration scheme approved under section 7 of the Public Bodies (Joint Working) (Scotland) Act 2014 (“the 2014 Act”), the co-ordination of those services.”,

(b) in subsection (2), after paragraph (e), add—

“(f) where the inspection is carried out under subsection (1)(c)—

20 (i) reviewing and evaluating the extent to which the independent health care service is complying with the integration delivery principles and contributing to achieving the national health and wellbeing outcomes,

25 (ii) reviewing and evaluating the extent to which the co-ordination of services provided by an independent health care service and social services is complying with the integration delivery principles and contributing to achieving the national health and wellbeing outcomes,

30 (iii) reviewing and evaluating the effectiveness of a strategic plan prepared under section 23 of the 2014 Act in complying with the integration delivery principles and contributing to achieving the national health and wellbeing outcomes,

(iv) encouraging improvement in the extent to which implementation of a strategic plan prepared under section 23 of the 2014 Act complies with the integration delivery principles and contributes to achieving the national health and wellbeing outcomes, and

35 (v) enabling consideration as to the need for any recommendations to be prepared as to any such improvement to be included in the report prepared under section 10N.”, and

(c) after subsection (7), add—

40 “(8) In this section—

“integration delivery principles” has the meaning given by section 25 of the Public Bodies (Joint Working) (Scotland) Act 2014;

“social services” has the meaning given by section 46 of the Public Services Reform (Scotland) Act 2010.”.

41C Joint inspections of health services and social services

- (1) The Public Services Reform (Scotland) Act 2010 is amended as follows.
- (2) In section 115(11) (meaning of “confidential information”), for “section”, where it second occurs, substitute “sections 116A(4) and”.

- (3) After section 116, insert—

“116A Joint inspections of social services and health services

- (1) Social Care and Social Work Improvement Scotland (“SCSWIS”) and Healthcare Improvement Scotland (“HIS”) may jointly conduct an inspection in relation to—

- (a) any social services, services provided under the health service or services provided by an independent health care service which are provided in pursuance of an integration scheme approved under section 7 of the Public Bodies (Joint Working) (Scotland) Act 2014 (“the 2014 Act”), or

- (b) a local authority, Health Board or integration joint board (as defined in section 1(4)(a) of the 2014 Act) which is required by section 23 of the 2014 Act to prepare a strategic plan.

- (2) The purposes of an inspection under this section may be any of those mentioned in section 10I(1) or (1B) or 10J(2) of the National Health Service (Scotland) Act 1978 or section 53(2) of this Act.

- (3) In conducting an inspection under this section, SCSWIS and HIS must have regard to any code of practice or practice note issued by the Scottish Ministers for the purpose of—

- (a) giving practical and general guidance on matters relating to such an inspection (including, without prejudice to that generality, such matters as access to confidential information and the holding, sharing and destruction of such information),

- (b) promoting what appear to them to be desirable practices with regard to such matters.

- (4) After conducting an inspection under this section, SCSWIS and HIS must—

- (a) prepare a report, and

- (b) give any person to whom the report relates an opportunity to comment on the report.

- (5) SCSWIS and HIS must—

- (a) give the report to the Scottish Ministers,

- (b) give copies of the report to any person to whom the report relates, and

- (c) make copies of the report available at their offices for inspection by any person at any reasonable time.

- (6) In this section—

“independent health care service” has the meaning given by section 10F of the National Health Service (Scotland) Act 1978;

“social services” has the meaning given by section 46.”.

- (4) In section 117 (regulations relating to joint inspections), after subsection 5, add—
- “(6) In this section, “joint inspection” means an inspection conducted under section 115 or 116A.”.

41D Amendments of section 56 of Local Government (Scotland) Act 1973

In section 56 of the Local Government (Scotland) Act 1973 (arrangements for discharge of functions by local authorities)—

(a) after subsection (7), insert—

“(7A) A local authority is not to make arrangements under this section for the discharge of any of its functions under the Public Bodies (Joint Working) (Scotland) Act 2014 by any other local authority.”, and

(b) after subsection (15), add—

“(16) In this section, “Act” includes an Act of the Scottish Parliament.”.

42 Meaning of “integration authority”

For the purposes of this Part, the “integration authority” for the area of a local authority is—

(a) where in pursuance of the integration scheme for the area functions are delegated in accordance with the integration model mentioned in section 1(4)(a), the integration joint board established in pursuance of the scheme,

(b) where in pursuance of the integration scheme for the area functions are delegated in accordance with the integration model mentioned in section 1(4)(b), the Health Board to which the functions are delegated,

(c) where in pursuance of the integration scheme for the area functions are delegated in accordance with the integration model mentioned in section 1(4)(c), the local authority to which the functions are delegated,

(d) where in pursuance of the integration scheme for the area functions are delegated in accordance with the integration model mentioned in section 1(4)(d), the local authority and the Health Board to which the functions are delegated, acting jointly.

43 Meaning of “integration functions”

(1) For the purposes of this Part, the “integration functions” for the area of a local authority are—

(a) where in pursuance of the integration scheme for the area functions are delegated in accordance with the integration model mentioned in section 1(4)(a), the functions delegated to the integration joint board in pursuance of the scheme,

(b) where in pursuance of the integration scheme for the area functions are delegated in accordance with the integration model mentioned in section 1(4)(b)—

(i) the functions delegated to the Health Board in pursuance of the scheme, and

(ii) the functions to be carried out in conjunction with those functions,

(c) where in pursuance of the integration scheme for the area functions are delegated in accordance with the integration model mentioned in section 1(4)(c)—

(i) the functions delegated to the local authority in pursuance of the scheme, and

(ii) the functions to be carried out in conjunction with those functions,

(d) where in pursuance of the integration scheme for the area functions are delegated in accordance with the integration model mentioned in section 1(4)(d)—

(i) the functions delegated to each of the Health Board and the local authority in pursuance of the scheme, and

(ii) the functions to be carried out in conjunction with those functions.

(2) In subsection (1), the references to the functions which are to be carried out in conjunction with delegated functions are to the functions set out in the integration scheme in pursuance of section 1(3)(c).

43A Meaning of “constituent authority”

For the purposes of this Part, each local authority and the Health Board which prepared the integration scheme in pursuance of which an integration joint board was, or is to be, established is a “constituent authority” in relation to that board.

PART 2

SHARED SERVICES

44 Shared services

(1) The Common Services Agency for the Scottish Health Service (the “Agency”) may, with the consent of the Scottish Ministers, enter into arrangements with a person mentioned in subsection (2) under which the Agency provides, or secures the provision of, any goods or services for the person.

(2) The persons are—

(a) the Scottish Ministers,

(b) any other office-holder in the Scottish Administration,

(c) any Scottish public authority,

(d) any Scottish public authority with mixed functions or no reserved functions,

(e) any government department,

(f) any cross-border public authority,

(g) any body corporate formed by a Health Board or by the Agency, or in the formation of which a Health Board or the Agency participated, by virtue of a delegation of the power in section 84B(1) of the National Health Service (Scotland) Act 1978 (joint ventures).

(3) Services which may be provided under subsection (1) include in particular—

(a) administrative services,

(b) technical services,

- (c) legal services,
- (d) other professional services,
- (e) accommodation services.

(4) The power to make arrangements under subsection (1) is without prejudice to any other power of the Agency to provide goods or services to other persons.

(4A) The Scottish Ministers may by order amend subsection (2) so as to add or remove a person, or a description of a person, for the time being mentioned in or falling within that subsection.

(5) In this section—

“cross-border public authority” has the meaning given by section 88(5) of the Scotland Act 1998 (c.46),

“government department” has the meaning given by section 126(1) of that Act,

“office-holder in the Scottish Administration” is to be construed in accordance with section 126(7) of that Act,

“Scottish public authority” has the meaning given by section 126(1) of that Act except that it does not include—

- (a) a Health Board,
- (b) a Special Health Board (constituted under section 2(1)(b) of the National Health Service (Scotland) Act 1978), or
- (c) Healthcare Improvement Scotland,

“Scottish public authority with mixed functions or no reserved functions” means persons, bodies and office-holders (other than the Agency) listed in schedule 5 to the Public Services Reform (Scotland) Act 2010 (improvement of public functions: listed bodies) under the heading “*Scottish public authorities with mixed functions or no reserved functions*”.

44A Section 44: consequential provision

(1) The National Health Service (Scotland) Act 1978 is amended in accordance with subsections (2) and (3).

(2) In section 10 (Common Services Agency)—

- (a) in subsection (1), the words from “which” to the end are repealed, and
- (b) after that subsection, insert—

“(1A) The Agency has the functions conferred on it by—

- (a) this Act, and
- (b) section 44 of the Public Bodies (Joint Working) (Scotland) Act 2014.”

(3) In section 15 (supply of goods and services to local authorities etc.)—

- (a) in subsection (1)—
 - (i) for “, a Health Board or the Agency”, in the first two places where it occurs, substitute “or a Health Board”, and
 - (ii) in paragraph (e), the words “or the Agency” are repealed,

(b) after that subsection, insert—

“(1ZA) Paragraph (a) of subsection (1) applies to the Agency as it applies to a Health Board.”,

(c) in subsection (2), after “including” insert “paragraph (a) as applied by subsection (1ZA) and”, and

(d) subsections (2A) to (2D) are repealed.

(4) In section 17(2) of the Patient Rights (Scotland) Act 2011, for “that Act” substitute “the 1978 Act”.

44B Common Services Agency for the Scottish Health Service: residual liabilities

In section 2(1) of the National Health Service (Residual Liabilities) Act 1996 (certain Scottish health bodies: duty to transfer residual liabilities on ceasing to exist), for “or a Special Health Board” substitute “, a Special Health Board or the Common Services Agency for the Scottish Health Service”.

45 Extension of schemes for meeting losses and liabilities of health service bodies

(1) Section 85B of the National Health Service (Scotland) Act 1978 (schemes for meeting losses and liabilities of health service bodies) is amended as follows.

(2) In subsection (2)—

(a) the word “and” immediately after paragraph (ea) is repealed,

(b) after paragraph (f) add—

“(g) local authorities; and

(h) integration joint boards established by order under section 9(2) of the 2014 Act.”.

(3) After subsection (2A) insert—

“(2B) The reference—

(a) in paragraph (a) of subsection (1) to property of a local authority is to be construed as a reference to property held by a local authority in connection with the exercise of its relevant functions;

(b) in paragraph (b) of that subsection to the functions of a local authority is to be construed as a reference to the relevant functions of a local authority.

(2C) In subsection (2B), “relevant functions” means—

(a) integration functions; and

(b) such other functions as the Scottish Ministers may by order specify.

(2D) In subsection (2C)(a), “integration functions” means functions which in pursuance of an integration scheme under the 2014 Act are—

(a) delegated to the authority;

(b) to be carried out in conjunction with functions delegated to the authority (that is, functions set out in the integration scheme in pursuance of section 1(3)(c) of that Act); or

(c) to be carried out by the authority by virtue of a direction under section 22 of the 2014 Act.”.

(4) After subsection (4) insert—

“(4A) Subsection (4)(a) does not apply in relation to a local authority.”.

(5) After subsection (5) insert—

“(6) In this section, “the 2014 Act” means the Public Bodies (Joint Working) (Scotland) Act 2014.”.

PART 3

HEALTH SERVICE: FUNCTIONS

46 Scottish Ministers: power to form companies etc.

In section 84B of the National Health Service (Scotland) Act 1978 (joint ventures)—

(a) in subsection (1), for “companies”, wherever it occurs, substitute “bodies corporate”,

(b) in subsection (2), for “company” substitute “body corporate”, and

(c) in subsection (3), the definition of “companies” is repealed.

47 Health Boards: carrying out of functions

After section 12J of the National Health Service (Scotland) Act 1978, insert—

“12K Power of Health Board to carry out other Health Board’s functions

A Health Board may, with the agreement of another Health Board and the Scottish Ministers, carry out on behalf of that other Health Board any function of that other Health Board.”.

PART 4

GENERAL

48 Interpretation

(1) In this Act—

“Health Board” has the meaning given by section 1(7),

“health care” has the same meaning as in section 10A(1)(b) of the National Health Service (Scotland) Act 1978,

“health professionals” means persons of such description engaged in the provision of health care as may be prescribed,

“integration joint board” has the meaning given by section 1(4)(a),

“integration joint monitoring committee” has the meaning given by section 14(2)(a),

“integration scheme” has the meaning given by section 1(3),

“prescribed” means prescribed by the Scottish Ministers by regulations,

“social care” means—

- (a) social services (having the same meaning as in Part 5 of the Public Services Reform (Scotland) Act 2010), and
- (b) such functions of local authorities relating to the provision of accommodation for persons who are homeless as may be prescribed,

“social care professionals” means persons of such description engaged in the provision of social care as may be prescribed,

“strategic plan” has the meaning given by section 23(2).

- (2) For the purposes of this Act, a provider of a service is a “commercial” provider if the aim of the person in providing the service is or includes making a profit.
- (3) References in this Act (other than sections 2(3), 37(1) and 43A)—
 - (a) to a local authority include, in the case where the integration scheme is being or has been jointly prepared under section 2(4), references to both or all the authorities which are preparing or have prepared the scheme, acting jointly,
 - (b) to the area of a local authority mean, in a case where the integration scheme is being or has been jointly prepared under section 2(4), the combined area of the local authorities which are preparing or have prepared the scheme.
- (4) References in this Act to a function include references to a function so far as exercisable in relation to persons or matters of a particular class or description.

49 Subordinate legislation

- (1) Regulations and orders under this Act may—
 - (a) make different provision for different purposes,
 - (aa) make different provision for different cases or classes of case,
 - (b) include such supplementary, incidental, consequential, transitional or transitory provision, or savings, as the Scottish Ministers consider appropriate.
- (2) Regulations under sections 1(4H) and 5(1) are subject to the affirmative procedure.
- (2A) An order under section 44(4A) is subject to the affirmative procedure.
- (3) An order under section 50 containing provision which adds to, replaces or omits any part of the text of an Act is subject to the affirmative procedure.
- (4) Otherwise, regulations and orders under this Act are subject to the negative procedure.
- (5) This section does not apply to an order under section 52(2).

50 Ancillary provision

- (1) The Scottish Ministers may by order—
 - (a) make such supplementary, incidental or consequential provision as they consider appropriate for the purposes of, in consequence of, or for giving full effect to, any provision of this Act,
 - (b) make such transitional or transitory provision or savings as they consider appropriate for the purposes of, or in connection with, the coming into force of any provision of this Act.

- (2) An order under this section may modify any enactment (including this Act).

51 Repeals and revocation

(A1) Section 5A of the Social Work (Scotland) Act 1968 (which makes provision about local authority plans for community care services) is repealed.

5 (1) Sections 4A and 4B of the National Health Service (Scotland) Act 1978 (c.29) (which make provision about community health partnerships) are repealed.

(2) Sections 15 to 17 of the Community Care and Health (Scotland) Act 2002 (asp 5) (which make provision about joint working among local authorities and certain health bodies) are repealed.

10 (3) Section 2 of the National Health Service Reform (Scotland) Act 2004 (asp 7) (which inserts sections 4A and 4B into the National Health Service (Scotland) Act 1978) is repealed.

(3A) Section 17(1) of the Patient Rights (Scotland) Act 2011 is repealed.

15 (4) Section 20 of the Social Care (Self-directed Support) (Scotland) Act 2013 (asp 1) (which amends section 15(4) of the Community Care and Health (Scotland) Act 2002) is repealed.

(5) The Public Services Reform (Functions of the Common Services Agency for the Scottish Health Service) (Scotland) Order 2013 (S.S.I. 2013/220) is revoked.

52 Commencement

20 (1) Sections 1(3) to (7), 5, 37 and 41 and this Part (other than section 51) come into force on the day after Royal Assent.

(2) The other provisions of this Act come into force on such day as the Scottish Ministers may by order appoint.

25 (3) An order under subsection (2) may contain transitory or transitional provision or savings.

53 Short title

The short title of this Act is the Public Bodies (Joint Working) (Scotland) Act 2014.

SCHEDULE

(introduced by section 1(4A))

ENACTMENTS CONFERRING ON LOCAL AUTHORITIES FUNCTIONS WHICH MAY BE DELEGATED

Sections 22, 26, 45 and 48 of the National Assistance Act 1948.

5 Section 3 of the Disabled Persons (Employment) Act 1958.

Section 11 of the Matrimonial Proceedings (Children) Act 1958.

Sections 1, 4, 5, 6B, 8, 10, 12, 12A, 12AZA, 12AA, 12AB, 13 to 14, 27, 27ZA, 28, 29, 59, 78A, 80, 81, 83, 86 and 87 of the Social Work (Scotland) Act 1968.

Sections 34, 39, 40 and 50 of the Children Act 1975.

10 Section 24 of the Local Government and Planning (Scotland) Act 1982.

Sections 21, 22 and 23 of the Health and Social Services and Social Security Adjudications Act 1983.

Sections 3, 5, 6, 8, 9 and 10 of the Foster Children (Scotland) Act 1984.

15 Sections 2, 3, 7 and 8 of the Disabled Persons (Services, Consultation and Representation) Act 1986.

Sections 4, 5 and 5A and Part II of the Housing (Scotland) Act 1987.

Sections 17, 19 to 27, 29 to 32, 36 and 38 of the Children (Scotland) Act 1995.

Sections 51, 203, 234B and 245A of the Criminal Procedure (Scotland) Act 1995.

Sections 10, 12, 37 and 39 to 45 of the Adults with Incapacity (Scotland) Act 2000.

20 Sections 1, 2, 5, 6, 8 and 92 of the Housing (Scotland) Act 2001.

Sections 5, 6 and 14 of the Community Care and Health (Scotland) Act 2002.

Sections 17, 25 to 27, 33, 34, 228 and 259 of the Mental Health (Care and Treatment) (Scotland) Act 2003.

Sections 10 and 11 of the Management of Offenders etc. (Scotland) Act 2005.

25 Section 71 of the Housing (Scotland) Act 2006.

Sections 1, 4, 5, 6, 9, 10, 11, 12, 19, 26, 45, 47, 48, 49, 51, 80, 90, 99 and 105 of the Adoption and Children (Scotland) Act 2007.

Sections 4 to 11, 14, 16, 18, 22, 40, 42 and 43 of the Adult Support and Protection (Scotland) Act 2007.

30 Sections 35, 37, 42, 44, 48, 49, 60, 131, 145, 166 and 167 of the Children's Hearings (Scotland) Act 2011.

Sections 3, 5 to 13, 16 and 19 of the Social Care (Self-directed Support) (Scotland) Act 2013.

Public Bodies (Joint Working) (Scotland) Bill

[AS AMENDED AT STAGE 2]

An Act of the Scottish Parliament to make provision in relation to the carrying out of functions of local authorities and Health Boards; to make further provision about certain functions of public bodies; to make further provision in relation to certain functions under the National Health Service (Scotland) Act 1978; and for connected purposes.

Introduced by: Alex Neil
Supported by: Derek Mackay
On: 28 May 2013
Bill type: Government Bill

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