

PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1

Functions of Local Authorities and Health Boards

Integration schemes

Section 1 – Integration schemes: same local authority and Health Board area

5. **Section 1** makes provision about integration schemes and sets out the four models of integration from which local authorities and Health Boards are to choose for the purposes of integration planning and integrated delivery of services in accordance with the Act.
6. Integration planning is predicated on the delegation of local authority and/or Health Board functions using one of the four models of delegation set out in subsection (4): (a) the local authority and the Health Board delegate functions to an integration joint board established as a body corporate by order by the Scottish Ministers; (b) the local authority delegates functions to the Health Board; (c) the Health Board delegates functions to a local authority, and (d) the local authority delegates functions to the Health Board and the Health Board delegates functions to the local authority.
7. By virtue of subsections (1) and (2), where the area of a local authority is the same as the area of a Health Board i.e. there is a single local authority within the Health Board area, the local authority and the Health Board are required to jointly prepare an integration scheme for the area of the local authority.
8. Subsection (3) sets out what the integration scheme must include. The required information is: (a) which model of integration is to be used; (b) the functions which are to be delegated in the way identified; (c) where functions are delegated to a Health Board, local authority or both, the functions of that body which are to be carried out in conjunction with the delegated functions, (the functions which may be set out in this part of the scheme are described in subsection (13)); (d) (where subsection (14) applies) a method of determining amounts to be made available by the Health Board for use by the person to whom the functions are delegated; (e) (where subsection (14) does not apply, or where it applies but the Health Board deems it not to apply) a method of determining payments which are to be made with respect to the delegated functions; and (f) information about additional matters or agreements that may be required by the Scottish Ministers by regulations.
9. Subsection (5) provides that local authorities may delegate only those of their functions that are conferred by the enactments listed in Part 1 of the schedule, or by virtue of an enactment listed in Part 2 of the schedule. Subsection (6) provides for Health

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Boards to delegate such of their functions as are prescribed by the Scottish Ministers. Subsection (7) provides that the Scottish Ministers may by regulations prescribe functions conferred by or by virtue of the enactments listed in the schedule that local authorities must delegate (where the integration model mentioned in subsection (4) (a) or (b) applies) in so far as those functions relate to persons aged 18 years or over. Subsection (8) provides for the Scottish Ministers to prescribe certain functions of a Health Board that must be delegated where the integration model mentioned in subsection (4)(a) or (c) applies and the functions relate to persons aged 18 years or over. Subsection (9) sets out the requirements which apply where the integration model provided for in subsection (4)(d), in which functions may be delegated to both the Health Board and local authority, is chosen. The provision sets out that either the local authority or the Health Board must delegate functions prescribed under subsections (7) or (8) respectively so far as the functions relate to persons aged 18 years or over. By virtue of subsection (10), the Scottish Ministers may prescribe functions of Health Boards that must be delegated other than in prescribed circumstances and prescribe functions of Health Boards that may not be delegated in prescribed circumstances. In addition, under subsection (11), the Scottish Ministers may prescribe functions listed in the schedule that may not be delegated by local authorities in prescribed circumstances. By virtue of subsection (12) the Scottish Ministers may remove enactments from the schedule.

10. Subsection (14) applies where Health Board functions which are to be delegated are carried out in a hospital which serves two or more local authority areas. Subsection (15) provides that regulations under subsection (3)(f) may include provisions: (a) conferring discretion on local authorities and Health Boards; (b) requiring local authorities and Health Boards to establish processes and procedures relating to prescribed matters; (c) imposing requirements on local authorities and Health Boards about the disclosure of information; and (d) on other matters relating to integration schemes as the Scottish Ministers think fit. Subsection (16), read with section 68(1)(Interpretation), defines what is meant by “Health Board” for the purposes of the Act. Its effect is that the provisions of the Act do not apply to Special Health Boards.