

PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1

Functions of Local Authorities and Health Boards

Reports by integration joint monitoring committee

Section 43 - Reports

114. [Section 43](#) sets out that an integration joint monitoring committee may give reports to the integration authority on the carrying out of any aspect of the integration functions.
115. Under subsection (2), reports under this section may include recommendations as to how the integration functions should be carried out in future.
116. Subsection (3) obliges the integration authority to have regard to the report and any recommendations contained within it. It requires the integration authority to take such action as it considers necessary and, where a report contains recommendations, respond to the integration joint monitoring committee. Subsection (4) makes provision for the publication of reports under this section.
117. Subsection (5) obliges the local authority and the Health Board to provide the integration joint monitoring committee with such reports, information and other assistance that it may reasonably require for the purpose of preparing a report under (1).

Section 44 - Review of integration scheme

118. [Section 44](#) obliges the local authority and the Health Board to carry out a review of their integration scheme at least every five years. Subsection (3) requires that the Health Board and the local authority have regard to the integration planning principles and the national health and wellbeing outcomes and that they undertake the consultation process as set out in section 6.
119. Subsection (4) requires the local authority and the Health Board to take account of the views of the persons consulted and to decide whether changes to the integration scheme are necessary or desirable.

Section 45 - Requirement to review integration scheme

120. [Section 45](#) provides for two circumstances where review of an integration scheme may be required more frequently than every 5 years.

*These notes relate to the Public Bodies (Joint Working) (Scotland)
Act 2014 (asp 9) which received Royal Assent on 1 April 2014*

121. Subsection (2) gives the Health Board or the local authority the power to require that a joint review of the integration scheme is undertaken to identify if any changes to the integration scheme are necessary or desirable.
122. On each occasion on which the Scottish Ministers exercise the power conferred by section 1(3)(f), subsection (3) gives the Scottish Ministers the power to require that the local authority and the Health Board undertake a review of the integration scheme, for example to identify whether they require to include additional information in the scheme.
123. Subsections (4) and (5) require that, where a review is required for either of these two reasons, the Health Board and the local authority undertake this review having regard to the integration planning principles and the national health and wellbeing outcomes and that they undertake the consultation process as set out in section 6. Subsection (5) requires the local authority and the Health Board to take account of the views of the persons consulted and decide whether changes to the integration scheme are necessary or desirable.

Section 46 – Revised integration scheme

124. This section sets out the process for varying the integration scheme after the local authority and Health Board decide, following a review, that changes to the scheme are necessary or desirable.
125. Any changes must be made jointly by the local authority and the Health Board and are to be achieved by the preparation of a revised integration scheme.
126. Subsection (3) establishes the scope of the changes that may be made to the integration scheme. A revised integration scheme may include further functions that are to be delegated, set out functions that are no longer to be delegated, amend the functions that are to be carried out in conjunction with the delegated functions when delegating to a Health Board only or a local authority only or to both, make adjustments to the method of determining payments as mentioned in section 1(3)(d) and/or 1(3)(e) and change or remove any information included within the integration scheme by virtue of section 1(3)(f).
127. Subsections (4) and (5) oblige the Health Board and the local authority to consult with persons or groups of persons the Scottish Ministers may prescribe and other persons as they think fit, and take account of their views.
128. Section 46(6) provides that the revised integration scheme must be submitted for approval by the Scottish Ministers.
129. Subsection (7) obliges the Scottish Ministers to set a date that a revised integration scheme takes effect. Subsection (8) requires the Health Board and the local authority to publish a revised scheme as soon as is practicable after the date on which it takes effect.

Section 47 – New integration scheme

130. Section 47 applies where a local authority and Health Board decide under section 44 or 45 that changes to an integration scheme are necessary or desirable. Section 47 sets out that a local authority and Health Board must prepare a new integration scheme under section 1 where they wish to change either the number or identity of the local authorities which prepared the scheme, or the integration model used. The new scheme is subject to all the same requirements, including consultation and the requirement for Ministerial approval, as the original integration scheme. Subsection (4) clarifies that the Act applies to a new integration scheme created under section 47 as it applies to a scheme prepared under section 1 or section 2(2).

Section 48 – Power to make provision in consequence of new integration scheme

131. This section confers power on the Scottish Ministers to take steps in consequence of a new integration scheme approved under section 47. They are empowered to provide by order for the winding-up of any integration joint board that was established in pursuance of the original scheme. They can also provide by scheme for the transfer of staff, property, rights, liabilities or obligations of an integration joint board, local authority or Health Board as may be necessary in light of the new scheme.
132. Subsection (4) requires the Scottish Ministers to consult the local authority and the Health Board before making such a scheme as a consequence of a new integration scheme.
133. Subsection (5) and (6) require that health and social care professionals have to be consulted where a scheme relates to the transfer of staff.