

COMMUNITY EMPOWERMENT (SCOTLAND) ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: National outcomes

5. The Act places a duty on the Scottish Ministers to consult on, develop and publish a set of national outcomes for Scotland. The Scottish Ministers must also regularly and publicly report on progress towards these outcomes and review them at least every five years. These duties do not require the Scottish Government to use a particular model of purpose, targets, outcomes and indicators. They require national outcomes to be determined, but there is flexibility as to how these may be presented and measured.

National outcomes

6. Subsection (1) of section 1 provides that the Scottish Ministers must determine national outcomes. National outcomes are outcomes for Scotland that result from or are contributed to by the devolved functions set out in subsection (3) carried out by the persons set out in subsection (2). The provisions are wide to allow the inclusion of all organisations that could be considered as “public bodies”, and other organisations that carry out public functions, such as private or third sector bodies who are contracted to deliver public services. The persons included in the category of “Scottish public authority” include the Scottish Ministers and local authorities.
7. Subsection (4) requires that when determining the national outcomes, the Scottish Ministers must have regard to the reduction of inequalities of outcomes which result from socio-economic disadvantage.
8. Subsection (5)(a) requires the Scottish Ministers to consult persons who appear to them to represent the interests of communities in Scotland as well as any other persons they consider appropriate before determining the national outcomes. For the purposes of this provision, “community” is defined widely as including communities of interest, identity or geography (subsection (11)). Having consulted under subsection (5)(a), subsection (5)(b) requires the Scottish Ministers to prepare draft national outcomes and subsection (5)(c) requires the Scottish Ministers to consult the Scottish Parliament on these draft national outcomes for a period of 40 days (as defined in subsection (8)).
9. For the purposes of the consultation with the Scottish Parliament under subsection (5) (c), subsection (6) requires the Scottish Ministers to lay before the Parliament a document describing the consultation with the public carried out under subsection (5) (a), including details of any representations received and whether any account has been taken of these representations in preparing the draft national outcomes.
10. Subsection (7) provides that the national outcomes cannot be published until after the 40 day period for consulting the Scottish Parliament.

11. Subsection (9) imposes a duty on those persons set out in subsection (2) to have regard to the national outcomes in carrying out the devolved functions mentioned in subsection (3). The duty in subsection (9), however, does not apply to the Scottish Parliament and the Scottish Parliamentary Corporate Body (subsection (10)).

Review of national outcomes

12. Subsection (1) of section 2 provides that the Scottish Ministers may review the national outcomes at any time. This is subject to subsection (2) which requires that, once the Scottish Ministers have published national outcomes, they must begin to review them no later than the expiry of 5 years from the day of publication. It will be for the Scottish Ministers to decide how frequently within that 5 year period they wish to review the national outcomes.
13. Subsection (1) is also subject to subsection (3) which provides that the Scottish Ministers must begin further reviews of the national outcomes at least every 5 years from the date of publication of revised national outcomes or the republication of the existing national outcomes. It is also subject to subsection (4) which provides that in any review of the national outcomes the Scottish Ministers must consult persons who appear to them to represent the interests of communities in Scotland and any other persons they consider appropriate. Subsection (9) defines “community” for the purposes of this provision as including communities based on common interest, identity or geography.
14. Subsection (5) provides that the Scottish Ministers may revise the national outcomes following a review. Subsection (5)(b) provides that if after a review revisions are made to the national outcomes, the Scottish Ministers must then consult the Scottish Parliament for a period of 40 days on these proposed revisions. It also provides that if after a review has taken place no revisions are proposed, the Scottish Parliament will still be consulted for the 40 day period on the existing national outcomes. Subsection (10) provides detail on how the 40 day period is to be calculated.
15. For the purposes of the consultation with the Scottish Parliament under subsection (5) (b), subsection (6) requires the Scottish Ministers to lay before the Parliament a document describing the consultation carried out under subsection (4), any representations received and whether any account was taken of those representations in preparing the proposed revisions to the national outcomes.
16. After the consultation with the Scottish Parliament, the national outcomes must either be published as revised or, where no changes are made, they must be republished (subsection (5)(d)).

Reports

17. Subsection (1) of section 3 requires the Scottish Ministers to prepare and publish reports about the extent to which the national outcomes have been achieved or not achieved. The format of the reporting will be for the Scottish Ministers to decide. The report must include information on progress since the previous report (subsection (2)). The Scottish Ministers must prepare and publish a report when they consider it appropriate (subsection (3)).