

POLICY NOTE

DRAFT : THE HEALTH BOARDS (MEMBERSHIP AND ELECTIONS) (SCOTLAND) ORDER 2013

Purpose

1. This Order is made by the Scottish Ministers under powers conferred by sections 4(1) and 10(2) of the Health Boards (Membership and Elections) (Scotland) Act 2009 and all other powers enabling them to do so. The Order is subject to affirmative procedure.
2. On 31st December 2013 the pilot Health Board elections that are in place in NHS Dumfries and Galloway and NHS Fife areas will be terminated by this Order. On that date elected members will cease to be members of the Health Boards in these areas.

Background

3. The Health Boards (Membership and Elections) (Scotland) Act 2009 (Commencement No. 1) Order 2009 commenced sections 1 to 3 of the Health Boards (Membership and Elections) (Scotland) Act 2009 in respect of Fife and Dumfries and Galloway Health Board areas for the purposes of piloting Health Board elections in those areas. In terms of section 4 of the 2009 Act that Order is referred to as “the pilot order”.
4. An order under section 7(1) of the 2009 Act (a “roll-out order”) to extend elections to other Health Board areas has not been made and will not be made.
5. This Order revokes the pilot order. This has the effect, by virtue of section 6(2) of the 2009 Act, of bringing section 6(3) and (4) of that Act into effect when the pilot order is revoked on 31st December 2013.
6. Section 6(3) repeals certain provisions of the 2009 Act which amended the National Health Service (Scotland) Act 1978 in respect of Health Board elections. Those amendments cease to have effect on 31st December 2013 and the affected provisions of the 1978 Act revert to how they were prior to being amended by the 2009 Act.
7. That said, the amendments made to paragraph 2 of Schedule 1 to the 1978 Act are not repealed by section 6(3). That paragraph was amended by section 1(2) of the 2009 Act to make provision including elected members on the Health Boards in the pilot areas. Instead of this provision being repealed, section 6(4) of the 2009 Act further amends paragraph 2 so that it no longer makes provision in respect of elected members.
8. There are other provisions in the 2009 Act which amend the 1978 Act and have not been repealed: section 1(3) to (5) and (7), and section 8, of the 2009 Act. These amendments do not, however, concern Health Board elections.

9. The amendments made to the 1978 Act by the 2009 Act (except section 8) have effect only in Fife and Dumfries and Galloway Health Board areas and the amendments which are not repealed on the revocation of the pilot order will continue to have effect in those areas (and the amendments made to paragraph 2 of Schedule 1 to the 1978 Act will continue to have effect only in those areas as further amended by section 6(4) of the 2009 Act and by virtue of this Order).

Timing

10. The Order comes into force on 31st December 2013 and terminates the pilot Health Board elections on that date.

Consultation

11. This decision was based on the findings of the independent evaluation of the Health Board Elections and Alternative Pilots, which was carried out by the London School of Economics.

Financial Effects

12. There will be no adverse financial effects associated with ending the pilot.

Health and Social Care Directorate
October 2013