
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe certain functions of Health Boards for the purpose of section 1(6) and (8) of the Public Bodies (Joint Working) (Scotland) Act 2014 (“the Act”).

The Act requires Health Boards and local authorities to agree arrangements for joint working in their area in relation to certain of their statutory functions. This will have the effect that adult health and social care services are provided, in all local authority areas, in a way which is integrated from the point of view of a person using those services. These joint working arrangements will involve the delegation of functions by the local authority, or by the Health Board, or both.

Regulation 2, with Schedule 1, sets out the functions prescribed for the purpose of section 1(6) of the Act. These functions may be included in the joint working arrangements made under the Act. Schedule 1 lists, in column A, prescribed enactments that confer functions on Health Boards. The section heading for each enactment is provided for illustrative purposes. Column B of Schedule 1 sets out certain functions which are not prescribed, and so which may not be delegated by a Health Board.

Regulation 3, with Schedules 2 and 3, sets out a narrower list of functions which are prescribed for the purpose of section 1(8) of the 2014 Act in so far as they are exercisable in relation to persons over 18 and in relation to certain services provided by Health Boards. Functions prescribed for the purpose of section 1(8) must be included in the joint working arrangements that are made under the Act.

Schedule 2 lists, in column A, certain enactments that confer functions on Health Boards. The section heading for each enactment is provided for illustrative purposes. Column B of Schedule 2 sets out certain functions which are not prescribed for the purpose of section 1(8). Schedule 3 sets out two lists of services provided by Health Boards. Each of these services is provided under the prescribed functions. However, the statutory functions of Health Boards are broad and do not, in general, relate to a single service or narrow category of service. The functions listed in Schedule 2 are prescribed only to the extent that those functions relate to the provision of care and treatment by health professionals in relation to the services listed in Part 2 of Schedule 3, and in relation to the provision of the services listed in Part 3 of Schedule 3.

Services listed in Part 2 of Schedule 3 are all provided in a hospital. Regulation 3(3)(b) makes clear that aspects of these services that are not provided by health professionals are not required to be integrated. For example, functions must be included in integration arrangements to the extent that they relate to medical, nursing, pharmaceutical and other clinical aspects of the listed services. In relation to the services in Part 3 of Schedule 3, which are all provided outwith a hospital, all aspects of the service must be included.

For the purpose of these Regulations, the term “health professionals” has the meaning set out in section 68(1) of the Act.

When functions are delegated in accordance with these Regulations, section 25(3) of the Act means that the person to whom the functions are delegated also has the powers and duties applying in connection with the carrying out of those functions.