

NATIONAL HEALTH SERVICE REFORM (SCOTLAND) ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Promotion of Health Improvement

Section 9 - Duty to promote health improvement

46. **Section 9** inserts two new sections into the 1978 Act, sections 1A and 2A. New section 1A places a duty upon the Scottish Ministers to promote improvement in the physical and mental health of the people of Scotland. New section 2A places a similar duty upon Health Boards, Special Health Boards and the Common Services Agency.
47. Section 1A provides the Scottish Ministers with an express power to act at their own hand to implement a wide range of measures designed to improve health. It also provides that the duty does not restrict any other functions of the Scottish Ministers, in particular those contained in section 1 of the 1978 Act. Section 2A confers on Health Boards, Special Health Boards and the Common Services Agency powers similar to those of conferred on the Scottish Ministers under section 1A.
48. Section 1A(2) specifies the powers available to the Scottish Ministers in pursuance of the duty to promote health improvement. It allows the Scottish Ministers to do anything that they think is likely to assist in promoting health improvement including:
 - giving direct financial assistance to any person;
 - entering into arrangements or agreements with any person; and
 - co-operating with, or facilitating or co-ordinating the activities, of any person.
49. Person in this context includes other bodies.
50. Subsection (2) of section 2A makes corresponding provision in relation to Health Boards, Special Health Boards and the Common Services Agency.
51. Subsection (4) of section 2A provides that anything done by a Health Board or a Special Health Board under section 2A is to be treated as done in exercise of a function of the Scottish Ministers delegated to the Health Board and Special Health Board by way of an order made under section 2(1)(a) or (b) of the 1978 Act respectively.