



National Health Service Reform (Scotland) Act 2004

2004 asp 7

PART 1

ORGANISATION AND OPERATION OF NATIONAL HEALTH SERVICE

Organisation

1 Dissolution of National Health Service trusts: modification of enactments

- (1) In the National Health Service (Scotland) Act 1978 (c. 29) (referred to in this Act as “the 1978 Act”), section 12A and Schedule 7A (establishment, functions, dissolution etc. of National Health Service trusts) are repealed.
- (2) In section 82 of the 1978 Act, after subsection (2A) insert—

“(2B) All endowments and property held in trust transferred to a Health Board by an order under paragraph 26 of Schedule 7A (whenever made) are held by the Health Board free of any trust existing immediately before the transfer (hereafter in this section referred to in relation to any such endowment or property as “the original trust”); but all such endowments and property shall be held by the Health Board on trust for such purposes relating to services provided under this Act, or to the functions of the Board with respect to research, as the Board may think fit.”
- (3) Until the coming into force of subsection (1) so far as repealing Schedule 7A to the 1978 Act, paragraph 26 of that Schedule has effect with the insertion after sub-paragraph (1) of the following sub-paragraph—

“(1A) For the avoidance of doubt, the reference to “property, rights and liabilities” in sub-paragraph (1) includes endowments and property held in trust.”

2 Community health partnerships

After section 4 of the 1978 Act insert—

Status: This is the original version (as it was originally enacted).

“Community health partnerships

4A Community health partnerships

- (1) Every Health Board shall establish, in accordance with a scheme under section 4B approved by the Scottish Ministers (an “approved scheme”)—
 - (a) a community health partnership for the area of the Board, or
 - (b) two or more community health partnerships for districts which, taken together, include the whole area of the Board.
- (2) Community health partnerships shall be established as committees or sub-committees of a Health Board.
- (3) Where the area or district of a community health partnership includes all or part of the areas of two or more Health Boards, the community health partnership (a “joint community health partnership”) shall be established jointly by those Boards in accordance with their approved schemes.
- (4) Joint community health partnerships shall be established as joint committees of the Health Boards by which they are established.
- (5) The functions of a community health partnership are—
 - (a) to co-ordinate, for its area or district, the planning, development and provision of—
 - (i) such of the services which it is the function of its Health Board to provide, or secure the provision of, as may be prescribed by regulations under section 4B(6) or specified in the approved scheme, and
 - (ii) such other of those services as its Health Board may specify, with a view to improving those services,
 - (b) to provide, or secure the provision of—
 - (i) such of the services which it is the function of its Health Board to provide, or secure the provision of, as may be prescribed by regulations under section 4B(6) or specified in the approved scheme, and
 - (ii) such other of those services as its Health Board may specify, and
 - (c) to exercise such other functions of its Health Board—
 - (i) as may be prescribed by regulations under section 4B(6),
 - (ii) as may be specified in the approved scheme,
 - (iii) as the Health Board may delegate to it.
- (6) In this section, references to the Health Board of a joint community health partnership are to each of the Health Boards by which it was established.

4B Community health partnerships: further provision

- (1) Every Health Board shall, within such period as the Scottish Ministers may specify, prepare and submit to them a scheme for the establishment of one or more community health partnerships in pursuance of section 4A(1).

Status: This is the original version (as it was originally enacted).

- (2) In preparing a scheme under subsection (1) or (5) a Health Board shall—
- (a) have regard to—
 - (i) any guidance issued under subsection (7),
 - (ii) community planning under section 15(1) of the Local Government in Scotland Act 2003 (asp 1) so far as relating to the area of the Board,
 - (b) consult—
 - (i) each local authority whose area includes all or part of the area or district of a community health partnership proposed by the scheme, and
 - (ii) any other person whom the Health Board think fit, and
 - (c) encourage the involvement of local authorities and other persons consulted under paragraph (b) in the preparation of the scheme.
- (3) The Scottish Ministers may—
- (a) approve (with or without modifications), or
 - (b) refuse to approve,
- a scheme submitted to them under subsection (1) or (5) or in pursuance of subsection (4).
- (4) Where the Scottish Ministers refuse to approve a scheme, they must return it to the Health Board and may direct the Board to resubmit the scheme with—
- (a) such modifications (if any) as the direction may specify, and
 - (b) any further modifications which the Board consider appropriate,
- by such time as the direction may specify.
- (5) A Health Board—
- (a) may, at any time,
 - (b) if so directed by the Scottish Ministers, must, within such period as they may specify,
- submit to the Scottish Ministers a new scheme under this section.
- (6) Regulations may make provision in relation to—
- (a) the membership of a community health partnership,
 - (b) the form and content of, and the procedure in relation to, schemes under this section,
 - (c) the functions of a community health partnership and the exercise of those functions,
 - (d) the application in relation to joint community health partnerships, with such modifications as may be specified, of the provisions of this Act, and any provision made under this Act, so far as applying in relation to community health partnerships,
 - (e) such other matters with respect to community health partnerships as the Scottish Ministers think fit.
- (7) The Scottish Ministers may, after consulting such persons as they think fit, issue guidance about community health partnerships and shall publish such guidance.
- (8) For the purposes of establishing a joint community health partnership in pursuance of section 4A(3), any power to appoint committees conferred on

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Health Boards by virtue of this Act shall include power for two or more Health Boards jointly to appoint joint committees.

- (9) Nothing in section 4A or this section affects the extent of any power under this Act so far as relating to committees or sub-committees of Health Boards.”

3 Duty in relation to governance of staff

After section 12H of the 1978 Act insert—

“12I Duty in relation to governance of staff

It shall be the duty of every Health Board and Special Health Board and of the Agency to put and keep in place arrangements for the purposes of—

- (a) improving the management of the officers employed by it;
- (b) monitoring such management; and
- (c) workforce planning.”