



Health Boards (Membership and Elections) (Scotland) Act 2009

2009 asp 5

Pilot scheme and action following pilot

4 Pilot scheme

- (1) Ministers may by order (the “pilot order”) appoint a day on which sections 1 to 3 are to come into force in respect of the Health Board areas specified in the order.
- (2) Ministers may make one pilot order only (but this does not affect Ministers' power to modify or revoke the order).
- (3) The pilot order may bring sections 1 to 3 into force with such modifications as Ministers consider appropriate.
- (4) An order to which this subsection applies may be made only if a draft of it has been laid before, and approved by a resolution of, the Scottish Parliament.

This subsection applies to—

- (a) a pilot order (or order amending a pilot order) which adds to, replaces or omits any part of the text of sections 1 to 3, and
- (b) an order revoking the pilot order.

5 Report on pilot scheme

- (1) At least 2 but no later than 5 years after the earliest Health Board election to be held in a Health Board area specified in the pilot order, Ministers must publish a report containing—
 - (a) a description of the changes made to the 1978 Act by sections 1 to 3 and how the constitution of Health Boards was changed by those sections coming into force in the Health Board areas specified in the pilot order,
 - (b) a description of the Health Board elections held in the specified Health Board areas, and
 - (c) an evaluation (carried out by an independent person) of—
 - (i) the level of public participation in the Health Board elections,

- (ii) whether having elected members on Health Boards led to increased engagement with patients and other members of the public or improved local accountability of the Health Board in the specified Health Board areas, and
 - (iii) the cost of holding the Health Board elections and the estimated cost of holding future Health Board elections in all Health Board areas.
- (2) The report may contain—
- (a) such other information, and
 - (b) an evaluation of such other matters,
- as Ministers consider appropriate.
- (3) Ministers must appoint a person to carry out the evaluation referred to in subsection (1) (c) at least 3 months before the first Health Board election is held.
- (4) Ministers must lay a copy of the published report before the Scottish Parliament.
- (5) For the purposes of paragraph (c) of subsection (1), and without prejudice to the generality of that paragraph, a person is not independent if he or she is—
- (a) an employee of any Health Board mentioned in the pilot order,
 - (b) a member of any Health Board mentioned in the pilot order, or
 - (c) a member of staff of the Scottish Administration.

6 Termination of pilot scheme

- (1) The pilot order is revoked on the day falling 7 years after the earliest Health Board election to be held in a Health Board area specified in the pilot order (but this does not affect Ministers' power to revoke the order on an earlier date).
- (2) If—
- (a) the pilot order is revoked before a roll-out order is made, or
 - (b) a question of whether to resolve to approve a draft roll-out order is put to a meeting of the Scottish Parliament but is not agreed by the Parliament,
- then, on the day the pilot order is revoked or on the day after the question is put (as the case may be), subsections (3) and (4) come into force.
- (3) The following provisions of this Act are repealed—
- (a) section 1(6) and (8),
 - (b) sections 2 to 5,
 - (c) subsections (1) and (2) of this section (except in so far as bringing this subsection and subsection (4) into force), and
 - (d) section 7,
- and the amendments of the 1978 Act made by provisions so repealed are accordingly to cease to have effect.
- (4) Paragraph 2 of Schedule 1 to the 1978 Act is amended as follows—
- (a) in sub-paragraph (1)—
 - (i) after sub-paragraph (a) insert “and”,
 - (ii) sub-paragraph (c) and the word “and” immediately preceding it are repealed,
 - (b) for sub-paragraphs (3) and (4) substitute—

“(3) At least one councillor member must be appointed for each local authority whose area is wholly or partly within the area of the Board.”.

7 **Roll-out**

- (1) Ministers may by order (a “roll-out order”) appoint a day on which sections 1 to 3 are to come into force in respect of Health Board areas not specified in the pilot order.
- (2) When a roll-out order is made section 6 is repealed.
- (3) A roll-out order may not be made unless—
 - (a) a report has been published under section 5(1), and
 - (b) a draft of the roll-out order has been laid before, and approved by a resolution of, the Scottish Parliament.
- (4) Before laying a draft of a roll-out order before the Scottish Parliament, Ministers must—
 - (a) lay before the Scottish Parliament—
 - (i) a copy of the proposed draft roll-out order, and
 - (ii) a statement of their reasons for proposing to make the draft roll-out order,
 - (b) publicise the proposed draft roll-out order in such manner as they consider appropriate, and
 - (c) have regard to—
 - (i) any representations about the proposed draft roll-out order,
 - (ii) any resolution of the Scottish Parliament about the proposed draft roll-out order, and
 - (iii) any report by a committee of the Scottish Parliament about the proposed draft roll-out order,made during such period as Ministers may specify when laying the copy proposed draft roll-out order.
- (5) The period so specified must—
 - (a) be no shorter than 60 days, and
 - (b) include at least 30 days during which the Scottish Parliament is not dissolved or in recess.
- (6) When laying a draft of a roll-out order before the Scottish Parliament, Ministers must—
 - (a) where any representation, resolution or report is made in pursuance of subsection (4)(c), lay a statement giving details of any representations, resolution or report and of their response, and
 - (b) where the draft roll-out order includes material changes to the proposed draft roll-out order, lay a statement giving details of the proposed revisions and of their reasons for them.
- (7) A roll-out order may make such provision adding to, replacing or omitting any part of the text of, or otherwise modifying, any enactment (including this Act) as Ministers consider appropriate.