



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

2009 asp 5

The Bill for this Act of the Scottish Parliament was passed by the Parliament on 12th March 2009 and received Royal Assent on 22nd April 2009

An Act of the Scottish Parliament to make provision about the constitution of Health Boards; to provide for piloting of the election of certain members of Health Boards; to require the Scottish Ministers to report on those pilots; to confer a power to extend those elections to all Health Board areas following publication of that report; and for connected purposes.

Constitution of Health Boards

1 Constitution of Health Boards

(1) Schedule 1 (Health Boards) to the National Health Service (Scotland) Act 1978 (c. 29) (the “1978 Act”) is amended as follows.

(2) For paragraph 2 substitute—

“2

(1) A Health Board is to consist of the following types of members—

- (a) a chairman, and other members, appointed by the Scottish Ministers (“appointed members”),
- (b) councillors appointed by the Scottish Ministers following nomination by local authorities in the area of the Health Board (“councillor members”), and
- (c) individuals elected as members of the Health Board at an election held under Schedule 1A (“elected members”).

(2) Regulations must, in relation to each Health Board, specify—

- (a) the total number of members of the Board, and
- (b) the number of each type of member.

(3) But—

*Status: This version of this Act contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the Health Boards (Membership and Elections) (Scotland) Act 2009. (See end of Document for details)*

- (a) the total number of councillor members and elected members of a Board must amount to more than half the total number of members, and
 - (b) a Board must contain at least one councillor member for each local authority whose area is wholly or partly within the area of the Board.
- (4) The conditions imposed by sub-paragraph (3) do not apply during any period when an elected member or, as the case may be, councillor member vacates office and the vacancy has not been filled.”.
- (3) In paragraph 2A, for “persons appointed under paragraph 2 above” substitute “appointed members”.
- (4) In paragraph 3—
- (a) for “Appointments under paragraph 2 shall be made” substitute “An appointed member may be appointed only”, and
 - (b) sub-paragraph (a) is omitted.
- (5) After paragraph 3 insert—

“3A
A person appointed as chairman of a Health Board may not be an employee of that Health Board.”.

^{F1}(6)

- (7) In paragraph 11(a), for “chairman and members of Health Boards” substitute “appointed members and councillor members (including provision specifying circumstances in which the Scottish Ministers may determine that such a member is to vacate office)”.

^{F2}(8)

Textual Amendments	
F1	S. 1(6) repealed (31.12.2013) (conditionally) by Health Boards (Membership and Elections) (Scotland) Act 2009 (asp 5) , ss. 6(2)(3)(a), 11(1); S.S.I. 2013/364, art. 2 (with art. 3(1))
F2	S. 1(8) repealed (31.12.2013) (conditionally) by Health Boards (Membership and Elections) (Scotland) Act 2009 (asp 5) , ss. 6(2)(3)(a), 11(1); S.S.I. 2013/364, art. 2 (with art. 3(1))
Commencement Information	
I1	S. 1 in force at 24.6.2009 for specified purposes by S.S.I. 2009/242 , art. 2 (which commencing S.S.I. 2009/242 was revoked (31.12.2013) by S.S.I. 2013/364 , art. 2 (with savings in art. 3))

Elected members of Health Boards

^{F3}**2 Health Board elections**

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Textual Amendments

F3 Ss. 2-5 repealed (31.12.2013) (conditionally) by [Health Boards \(Membership and Elections\) \(Scotland\) Act 2009 \(asp 5\)](#), ss. 6(2)(3)(b), 11(1); S.S.I. 2013/364, art. 2 (with art. 3(1))

F33 Scottish Ministers' powers in relation to elected members

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Textual Amendments

F3 Ss. 2-5 repealed (31.12.2013) (conditionally) by [Health Boards \(Membership and Elections\) \(Scotland\) Act 2009 \(asp 5\)](#), ss. 6(2)(3)(b), 11(1); S.S.I. 2013/364, art. 2 (with art. 3(1))

Pilot scheme and action following pilot

F34 Pilot scheme

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Textual Amendments

F3 Ss. 2-5 repealed (31.12.2013) (conditionally) by [Health Boards \(Membership and Elections\) \(Scotland\) Act 2009 \(asp 5\)](#), ss. 6(2)(3)(b), 11(1); S.S.I. 2013/364, art. 2 (with art. 3(1))

F35 Report on pilot scheme

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Textual Amendments

F3 Ss. 2-5 repealed (31.12.2013) (conditionally) by [Health Boards \(Membership and Elections\) \(Scotland\) Act 2009 \(asp 5\)](#), ss. 6(2)(3)(b), 11(1); S.S.I. 2013/364, art. 2 (with art. 3(1))

6 Termination of pilot scheme

F4(1)

F4(2)

(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.

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- (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.”.

Textual Amendments

F4 S. 6(1)(2) repealed (31.12.2013 for specified purposes) (conditionally) by [Health Boards \(Membership and Elections\) \(Scotland\) Act 2009 \(asp 5\)](#), ss. [6\(2\)\(3\)\(c\)](#), 11(1); S.S.I. 2013/364, art. 2 (with art. 3(1))

Modifications etc. (not altering text)

C1 S. 6(4) restricted (31.12.2013) by [The Health Boards \(Membership and Elections\) \(Scotland\) Order 2013 \(S.S.I. 2013/364\)](#), [art. 3\(2\)](#)

Commencement Information

I2 S. 6 partly in force; s. 6(1)(2) in force at Royal Assent see s. 11

^{F57} Roll-out

Textual Amendments

F5 S. 7 repealed (31.12.2013) (conditionally) by [Health Boards \(Membership and Elections\) \(Scotland\) Act 2009 \(asp 5\)](#), ss. [6\(2\)\(3\)\(d\)](#), 11(1); S.S.I. 2013/364, art. 2 (with art. 3(1))

Final provisions

PROSPECTIVE

8 Minor and consequential amendments

The schedule contains minor and consequential amendments.

9 Key terms

In this Act—

- the “1978 Act” means the National Health Service (Scotland) Act 1978 (c. 29),
- “Health Board” means a board constituted by an order under section 2(1)(a) of the 1978 Act,
- “Health Board election” means an election held under Schedule 1A to the 1978 Act (as inserted by section 2(3) of this Act),

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“Ministers” means the Scottish Ministers,
“pilot order” has the meaning given by section 4(1),
“roll-out order” has the meaning given by section 7(1).

10 Orders

- (1) An order made under this Act is to be made by statutory instrument.
- (2) Such an order may—
 - (a) make different provision for different purposes (in particular, for different Health Board areas), and
 - (b) contain any supplementary, incidental, consequential, transitional, transitory or saving provision which Ministers consider appropriate.

11 Commencement

- (1) Sections 1 to 3 come into force in accordance with sections 4 and 7.
- (2) Sections 4, 5, 6(1) and (2), 7, 9, 10, 12 and this section come into force on Royal Assent.
- (3) Section 6(2) provides for the commencement of section 6(3) and (4) in particular circumstances.
- (4) Section 8 and the schedule come into force on such day as Ministers may by order appoint.

12 Short title

This Act is called the Health Boards (Membership and Elections) (Scotland) Act 2009.

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SCHEDULE

(introduced by section 8)

MINOR AND CONSEQUENTIAL AMENDMENTS

National Health Service (Scotland) Act 1978 (c. 29)

- 1 In paragraph 4 of Schedule 1 to the 1978 Act, for the words from “the”, where it second occurs, to “prescribed” substitute “—
- (a) the chairman of a Health Board,
 - (b) such other members of a Health Board as may be prescribed, and
 - (c) such members of committees and sub-committees of a Health Board as may be prescribed.”.

PROSPECTIVE

Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4)

F62

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Textual Amendments

- F6** Sch. para. 2 repealed (14.2.2010) by [The Public Appointments and Public Bodies etc. \(Scotland\) Act 2003 \(Amendment of Specified Authorities\) Order 2010 \(S.S.I. 2010/50\)](#), arts. 1, 3

Status:

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Changes to legislation:

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