

PUBLIC SERVICES REFORM (SCOTLAND) ACT 2010

EXPLANATORY NOTES

THE ACT

Part 8 – Scrutiny and Complaints

Joint inspections

Section 115 - Joint inspections

293. Subsection (1) requires any two or more of the persons or bodies specified in subsection (6), on being requested to do so by the Scottish Ministers, to conduct jointly an inspection of the provision of children’s services, such other services within the inspection remit of the bodies involved as Scottish Ministers specify, or a combination of such services. The intention is that the Scottish Ministers would be able to require a joint inspection of, for example, child protection services, adult mental health services or services for people (that is adults and children) with learning disabilities.
294. Subsection (11) defines “children’s services” to mean services provided predominantly to, or for the benefit of, children to which the provisions of section 15(1) of the Local Government in Scotland Act 2003 apply. Section 15(1) of that Act makes provision regarding community planning by local authorities. The services to which the community planning process may apply are all public services provided in the area of the local authority. These public services may be provided by public bodies or community bodies as defined in section 15(4) of that Act.
295. Subsections (2) to (4) enable the Scottish Ministers to specify the purposes for any joint inspection and to specify that any or all of the services to be jointly inspected are inspected by reference to the area in which they are provided (which can be the whole of Scotland or any part of Scotland) or to the person or group of persons to whom they are provided.
296. Subsection (5) requires a joint inspection to be carried out to a timetable approved by, and in accordance with any directions issued by, Scottish Ministers. Such directions might include which person or body is to co-ordinate the arrangements for the joint inspection and the arrangements for the publication of the report.
297. Subsection (6) lists the persons and bodies which may be required to conduct a joint inspection in terms of a request from the Scottish Ministers under subsection (1). Subsection (9) enables the Scottish Ministers, by order, to add other persons or bodies to or remove bodies from the list.
298. Subsection (7) allows any person or body listed in subsection (6) who considers a joint inspection would be appropriate to bring this to the attention of Scottish Ministers.
299. Subsection (8) enables the joint inspection team to submit their report and recommendations to Scottish Ministers following an inspection. It also requires persons

or bodies participating in a joint inspection to have regard to any code of practice prepared by Scottish Ministers giving practical and general advice and promoting desirable practices. Matters such as access to and the use and destruction of confidential information are examples of the kind of matter which might be dealt with in such a code.

300. Subsection (11) defines confidential information for the purposes of this section and section 117(3).

Section 116 - Participation in joint inspections

301. Subsection (1) allows Scottish Ministers to direct persons or bodies not listed in section 115(6) but which have inspection functions to participate in a joint inspection. The direction to participate may specify that participation is only to a limited extent or for a limited purpose. This section would enable Scottish Ministers to include lay people or specific organisations with particular knowledge or expertise, for example, in any aspect of services for children; provided of course any person so included was given inspection functions as an authorised person of an inspection body.
302. Subsection (2) gives Scottish Ministers the power, when directing the participation in a joint inspection of a person or body in terms of subsection (1), to limit the exercise by that person or body of the powers conferred under regulations under section 117 in relation to the conduct of joint inspections. In some cases, it would not be appropriate for such a person or body to have access to, for example, sensitive and personal information.

Section 117 - Regulations relating to joint inspections

303. Subsection (1) provides for regulations relating to how inspections may be conducted, and subsection (2) provides a non-exhaustive list of what the regulations may provide for including provision as to entering premises, seizure of items, persons authorised to carry out inspections, the sharing of information, the handling of confidential information, interviews and examinations, reports and the creation of offences.