

PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2

Shared Services

Section 62 - Shared services

151. **Section 62(1)** enables the Common Services Agency for the Scottish Health Service (the “Common Services Agency”) to provide, or arrange the provision of, goods and services to the bodies listed in subsection (2). The Common Services Agency may only provide, or arrange the provision of goods and services to those bodies with the consent of the Scottish Ministers.
152. Subsection (3) provides an illustrative list of the services which may be provided. The list comprises administrative, technical, legal, other professional and accommodation services.
153. The Common Services Agency also has powers under the National Health Service (Scotland) Act 1978 (“the 1978 Act”) to provide goods and services to certain persons. For example, under section 15 of the 1978 Act, the Common Services Agency may provide goods to doctors, dentists and ophthalmologists who are providing primary medical services under a contract with a Health Board. Subsection (4) sets out that the power of the Common Services Agency to provide goods and services under subsection (1) of this section sits alongside and does not prejudice any other power of the Common Services Agency to provide goods or services to other persons.
154. Subsection (5) enables the Scottish Ministers to amend, by order, the list of persons, or description of persons, to whom the Common Services Agency may provide goods or services.

Section 63 – Section 62: consequential provision

155. **Section 63** amends sections 10 and 15 of the National Health Service (Scotland) Act 1978 (the “1978 Act”) and section 17(2) of the Patient Rights (Scotland) Act 2011 so as to make changes which are necessary in consequence of sections 62 and 71. Subsection (2) adjusts section 10 of the 1978 Act to reflect that the functions of the Common Services Agency are conferred on it by section 62 of the Act as well as by the 1978 Act. Subsection (3)(a) removes references to the Common Services Agency from section 15 of the 1978 Act. The functions formerly conferred on the Agency by that section are replaced by functions conferred on the Agency by section 44 of the Act. Subsection (3) (b) and (c) have the effect that section 15(1)(a) of the 1978 Act continues to apply to the Common Services Agency despite the change made by subsection (2). Subsection (3)(d) repeals section 15(2A)-(2D) of the 1978 Act. Subsection (4) makes a change to

section 17(2) of the Patient Rights (Scotland) Act 2011 to insert a reference to “the 1978 Act”. Section 17(1) of the 2011 Act, which includes a similar reference to the 1978 Act, is repealed by section 71(5) of the Act.

Section 64 – Common Services Agency for the Scottish Health Service: residual liabilities

156. **Section 64** amends section 2(1) of the National Health Service (Residual Liabilities) Act 1996 to ensure that those bodies entering into contracts with the Common Services Agency are offered the same protection which is provided when contracting with other NHS bodies. This change is made to take account of the fact that the Common Services Agency may, since the enactment of section 14 of the Public Services Reform (Scotland) Act 2010, be dissolved by order under that Act. In the event that such an order is made, any residual liabilities of the Common Services Agency will transfer to the Scottish Ministers or another health body.

Section 65 – Extension of schemes for meeting losses and liabilities of health service bodies

157. **Section 65** amends section 85B of the National Health Service (Scotland) Act 1978 to permit local authorities and integration joint boards to participate in the scheme established under that section for the purposes of meeting losses and liabilities incurred in the exercise of relevant functions.
158. Subsection (3) inserts references into the 1978 Act, which have the effect of restricting the functions of local authorities that can be covered by a scheme made under section 85B of the 1978 Act. It restricts the functions to integration functions and to functions that a local authority carries out in accordance with a direction from an integration joint board. The Scottish Ministers are given the power to specify by order other functions of local authorities that can be covered by a scheme under section 85B of the 1978 Act. “Integration functions” are defined for the purposes of this section in relation to local authorities as functions which are delegated to the authority under an integration scheme; to be carried out in conjunction with delegated functions; or to be carried out by the local authority in pursuance of a direction by a Health Board or integration joint board under section 26.
159. Subsection (4) amends the existing power in the 1978 Act so that the Scottish Ministers are not able to direct local authorities to participate in a scheme made under section 85B of the 1978 Act.