



# Public Bodies (Joint Working) (Scotland) Act 2014

## 2014 asp 9

### PART 1

#### FUNCTIONS OF LOCAL AUTHORITIES AND HEALTH BOARDS

##### *Carrying out of delegated functions*

#### **25 Effect of delegation of functions**

- (1) This section applies where a function is delegated in pursuance of an integration scheme.
- (2) The integration authority to which the function is delegated is to carry out the function.
- (3) The integration authority has all of the powers and duties from time to time applying in connection with the carrying out of the function.
- (4) Despite subsection (2), the delegation of the function in pursuance of an integration scheme does not prevent the carrying out of the function by the person by whom the delegation is made.
- (5) The Scottish Ministers may by order provide that an integration authority which is an integration joint board must or must not exercise a power of the type mentioned in subsection (3) in connection with the carrying out of a function specified in the order.

#### **Commencement Information**

**II** S. 25 in force at 22.9.2014 by [S.S.I. 2014/231](#), [art. 2](#)

#### **26 Directions by integration authority**

- (1) Where the integration authority is an integration joint board, it must give a direction to a constituent authority to carry out each function delegated to the integration authority.

*Changes to legislation:* There are currently no known outstanding effects for the Public Bodies (Joint Working) (Scotland) Act 2014, Cross Heading: Carrying out of delegated functions. (See end of Document for details)

- (2) Where<sup>[F1]</sup>, as mentioned in section 59(b) or (c),] the integration authority is a local authority or a Health Board, it may give a direction to the Health Board or local authority which prepared the integration scheme by virtue of which it is the integration authority to carry out any function delegated to the integration authority.
- [<sup>F2</sup>(2A) Where, as mentioned in section 59(d)(i), the integration authority in relation to a particular function is a local authority or Health Board, the integration authority may give a direction to the Health Board or, as the case may be, the local authority which delegated the function to carry out the function.]
- (3) A person to whom a direction under this section may be given must provide the integration authority with such information as the integration authority may reasonably require for the purpose of its deciding—
- (a) whether to give the direction,
  - (b) the content of the direction.
- (4) A direction under this section may be given to more than one person in relation to the same function.
- (5) If a direction such as is mentioned in subsection (4) is given, the direction may—
- (a) require the persons to carry out the function jointly or only in so far as is specified in the direction,
  - (b) require each person to carry out the function in relation to an area specified in the direction,
  - (c) require each person to do particular things in relation to the function.

#### Textual Amendments

- F1** Words in s. 26(2) inserted (28.11.2014) by [The Public Bodies \(Joint Working\) \(Scotland\) Act 2014 \(Modifications\) Order 2014 \(S.S.I. 2014/342\)](#), arts. 1, **2(4)(a)**
- F2** S. 26(2A) inserted (28.11.2014) by [The Public Bodies \(Joint Working\) \(Scotland\) Act 2014 \(Modifications\) Order 2014 \(S.S.I. 2014/342\)](#), arts. 1, **2(4)(b)**

#### Commencement Information

- I2** S. 26 in force at 22.9.2014 by [S.S.I. 2014/231](#), **art. 2**

## 27 Section 26: supplementary

- (1) A direction under section 26—
- (a) must, where provision of the type mentioned in section 1(3)(d) is included in the integration scheme in relation to the function to which the direction relates, set out the amount which has been set aside by the Health Board for the use of the person who is to carry out the function,
  - (b) must, in any other case, set out, or set out a method of determining, payments that are to be made by the integration authority to the person who is to carry out the function,
  - (c) must specify how such an amount or, as the case may be, such a payment is to be used,
  - (d) may—
    - (i) regulate the manner in which the function is to be carried out,

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- (ii) make such supplementary, incidental or consequential provision as the integration authority considers appropriate.
- (2) The provision referred to in subsection (1)(d)(ii) may include in particular the imposition on the person who is to carry out the function of requirements—
  - (a) to provide information to the integration authority,
  - (b) to take action to enable the integration authority to comply with any order of a court made against it in connection with the carrying out of the function.
- (3) The integration authority must make payments in accordance with any provision included in the direction by virtue of subsection (1)(b).
- (4) A person to whom a direction under section 26 is given must comply with the direction.
- (5) A direction under section 26—
  - (a) may vary or revoke an earlier direction under that section given by the same integration authority,
  - (b) must be in writing.
- (6) If the conditions in subsection (7) are met, the Scottish Ministers may by order provide that an integration authority which is an integration joint board may decide not to give a direction under section 26 in relation to the carrying out of a function specified in the order.
- (7) The conditions are—
  - (a) that the Scottish Ministers receive a written application from the constituent authorities requesting that an order be made in relation to the functions specified in the application, and
  - (b) that the Scottish Ministers consider that the making of an order in relation to some or all of those functions would improve compliance with the integration delivery principles and contribute to achieving the national health and wellbeing outcomes in relation to the carrying out of the functions.
- (8) If the Scottish Ministers do not consider under subsection (7)(b) that the making of an order under subsection (6) would improve compliance with the integration delivery principles or contribute to achieving the national health and wellbeing outcomes in relation to the carrying out of any functions, they need not include those functions in the order.

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**Commencement Information**

**I3** S. 27 in force at 22.9.2014 by [S.S.I. 2014/231](#), art. 2

## **28 Health funding: further provision**

- (1) This section applies where under section 14(3) or 19(2) a Health Board is required to set aside an amount in respect of certain functions delegated to an integration authority.
- (2) The integration authority may by direction require a Health Board—
  - (a) to carry out a function delegated to the integration authority by the Health Board and in relation to which amounts have been set aside, and
  - (b) to use an amount of the set aside amount specified in the direction (the “specified amount”) for that purpose.

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- (3) If the integration authority gives a direction under subsection (2) and, despite the direction, the Health Board does not use all of the specified amount, the integration authority may require the Health Board to pay to it the unused amount of the specified amount.
- (4) If the integration authority gives a direction under subsection (2) and, despite the direction, the Health Board requires to use more than the specified amount, the Health Board may require the integration authority to reimburse it for the additional amount used.
- (5) The Health Board must give reports to the integration authority about such matters relating to the amounts set aside as the integration authority may specify.
- (6) Reports under subsection (5) must be given at such times and in relation to such periods as the integration authority may specify.

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**Commencement Information**

**I4** [S. 28](#) in force at 22.9.2014 by [S.S.I. 2014/231](#), [art. 2](#)

**Changes to legislation:**

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