



# 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*Status: Point in time view as at 31/12/2013. 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.”.

<sup>F1</sup>(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)”.

<sup>F2</sup>(8) .....

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	S. 1(6) repealed (31.12.2013) (conditionally) by 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	S. 1(8) repealed (31.12.2013) (conditionally) by 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 was revoked (31.12.2013) by 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

*Elected members of Health Boards*

<sup>F3</sup>**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))

**F3 3 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*

**F3 4 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))

**F3 5 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

## <sup>F57</sup> 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

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