Public Bodies (Joint Working) (Scotland) Bill
[AS INTRODUCED]

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Public Bodies (Joint Working) (Scotland) Bill

[AS INTRODUCED]

An Act of the Scottish Parliament to make provision in relation to the carrying out of functions of local authorities and Health Boards; to make further provision about certain functions of public bodies; to make further provision in relation to certain functions under the National Health Service (Scotland) Act 1978; and for connected purposes.

**PART 1**

**FUNCTIONS OF LOCAL AUTHORITIES AND HEALTH BOARDS**

*Integration plans*

**1 Integration plans: same local authority and Health Board area**

(1) Subsection (2) applies where the area of a local authority is the same as the area of a Health Board.

(2) The local authority and the Health Board must jointly prepare an integration plan for the area of the local authority.

(3) An integration plan is a plan setting out—

(a) which integration model mentioned in subsection (4) is to apply,

(b) the functions that are to be delegated in accordance with that model,

(c) where functions are to be delegated in accordance with the model mentioned in subsection (4)(b), (c) or (d), the functions of the person to whom functions are to be delegated which are to be carried out in conjunction with the delegated functions,

(d) a method of calculating payments that are to be made in respect of a delegated function by the person delegating the function to the person to whom the function is delegated,

(e) prescribed information about such other matters as may be prescribed.

(4) The integration models are—

(a) delegation of functions by the local authority to a body corporate that is to be established by order under section 9 (an “integration joint board”) and delegation of functions by the Health Board to the integration joint board,

(b) delegation of functions by the local authority to the Health Board,
(c) delegation of functions by the Health Board to the local authority,
(d) delegation of functions by the local authority to the Health Board and delegation of functions by the Health Board to the local authority.

(5) A function may not be set out under subsection (3)(c) if it is a function which by virtue of regulations under subsection (6)(a) or (b) may not be delegated under an integration plan.

(6) The Scottish Ministers may by regulations prescribe—
(a) functions of local authorities that must, may or may not be delegated under an integration plan,
(b) functions of Health Boards that must, may or may not be delegated under an integration plan,
(c) functions of local authorities or Health Boards—
(i) that must be delegated under an integration plan other than in prescribed circumstances,
(ii) that may be delegated under an integration plan only in prescribed circumstances,
(iii) that may not be delegated under an integration plan in prescribed circumstances,
(d) functions of local authorities or Health Boards that may be delegated under an integration plan only if other prescribed functions are also delegated to the same person under the plan.

(7) In this section, “Health Board” means a Health Board constituted under section 2(1)(a) of the National Health Service (Scotland) Act 1978 (c.29).

2 Integration plans: two or more local authorities in Health Board area

(1) This section applies where the areas of two or more local authorities fall within the area of a Health Board.
(2) Each local authority and the Health Board must comply with subsection (3) or (4) as respects each local authority area.
(3) Each local authority and the Health Board must jointly prepare an integration plan for the area of the local authority.
(4) Two or more local authorities and the Health Board must jointly prepare an integration plan for the areas of those local authorities.
(5) In preparing an integration plan under subsection (3) or (4), a local authority must take into account—
(a) any other integration plan that has been, or is being, prepared in relation to the area of the same Health Board, and
(b) the likely effect on the Health Board of both or all the plans prepared under this section.
3 **Considerations in preparing integration plan**

(1) This section applies where a local authority and a Health Board are preparing an integration plan.

(2) The local authority and the Health Board must have regard to—

(a) the integration planning principles (see section 4), and

(b) the national health and wellbeing outcomes (see section 5).

4 **Integration planning principles**

(1) The integration planning principles are—

(a) that the main purpose of services which must or may be provided in pursuance of functions which must or may be delegated under an integration plan is to improve the wellbeing of recipients,

(b) that, in so far as consistent with the main purpose, those services should be provided in the way which, so far as possible—

(i) is integrated from the point of view of recipients,

(ii) takes account of the particular needs of different recipients,

(iii) takes account of the particular needs of recipients in different parts of the area in which the service is being provided,

(iv) is planned and led locally in a way which is engaged with the community and local professionals,

(v) best anticipates needs and prevents them arising, and

(vi) makes the best use of the available facilities, people and other resources.

(2) In subsection (1), “recipients” means persons to whom or in relation to whom the services are provided.

5 **Power to prescribe national outcomes**

(1) The Scottish Ministers may by regulations prescribe outcomes in relation to health and wellbeing.

(2) Such outcomes are to be known as “the national health and wellbeing outcomes”.

(3) Before making regulations under subsection (1), the Scottish Ministers must consult—

(a) each local authority,

(b) each Health Board,

(c) each integration joint board at the time established,

(d) in respect of each group mentioned in subsection (4), such persons appearing to be representative of the group as the Scottish Ministers think fit.

(4) The groups mentioned in subsection (3)(d) are—

(a) health professionals,

(b) users of health care,

(c) carers of users of health care,
(d) commercial providers of health care,
(e) non-commercial providers of health care,
(f) social care professionals,
(g) users of social care,
(h) carers of users of social care,
(i) commercial providers of social care,
(j) non-commercial providers of social care.

6 Consultation

(1) This section applies where a local authority and a Health Board are required by section 1(2) or 2(2) to prepare an integration plan.

(2) Before submitting the integration plan for approval under section 7, the local authority and the Health Board must jointly consult—
   (a) such persons or groups of persons appearing to the Scottish Ministers to have an interest as may be prescribed, and
   (b) such other persons as the local authority and the Health Board think fit.

(3) In finalising the integration plan, the local authority and the Health Board must take account of any views expressed by virtue of subsection (2).

7 Approval of integration plan

(1) After complying with section 6 and before the prescribed day, a local authority and a Health Board must jointly submit an integration plan to the Scottish Ministers for approval.

(2) Any information included in an integration plan by virtue of section 1(3)(e) need not be approved by the Scottish Ministers but may be taken into account by them in deciding whether to approve the plan.

(3) The Scottish Ministers may—
   (a) approve the plan submitted under subsection (1),
   (b) refuse to approve it.

(4) If the Scottish Ministers refuse to approve the plan, the local authority and the Health Board must jointly modify the plan and submit it for approval under subsection (1).

(5) The Scottish Ministers may, on their own account or on the request of the local authority and the Health Board, specify that subsection (1) applies as if the prescribed day were such later day as the Scottish Ministers may specify.

(6) A request under subsection (5) must be made in writing and must include the reasons for the request.

(7) A day specified under subsection (5) is to be treated as if it were the prescribed day for the purposes of the other provisions of this Act.
8 Publication of integration plan
As soon as practicable after an integration plan is approved under section 7, the local authority and the Health Board must publish it.

Implementation of integration plan

9 Functions delegated to integration joint board
(1) This section applies where the Scottish Ministers approve under section 7 an integration plan setting out that the integration model in section 1(4)(a) is to apply.
(2) The Scottish Ministers may by order establish the integration joint board to which the functions are to be delegated.
(3) The functions are to be delegated before the prescribed day.

10 Chief officer of integration joint board
(1) An integration joint board is to appoint, as a member of staff, a chief officer.
(2) Subsection (3) applies where the person to be appointed is an existing member of staff of a constituent authority.
(3) The person is to be seconded to the board by that authority.
(4) Where subsection (3) does not apply, the person to be appointed—
   (a) is to be appointed as a member of staff of a constituent authority, and
   (b) is then to be seconded to the board by that authority.
(5) The Scottish Ministers may in relation to any integration joint board by order—
   (a) disapply the requirements of subsections (2) to (4), and
   (b) make provision enabling the board to employ a chief officer on such terms and conditions as the board determines.
(6) Before appointing a person as chief officer an integration joint board is to consult the constituent authorities.
(7) The responsibilities of a chief officer are subject to the agreement of the Scottish Ministers.
(8) The references in this section to constituent authorities are to the local authority and the Health Board which prepared the integration plan in pursuance of which the integration joint board was established.

11 Other staff of integration joint board
(1) The Scottish Ministers may by order make provision enabling integration joint boards to appoint staff other than a chief officer.
(2) Such an order may include such further provision as regards such staff as the Scottish Ministers think fit, including in particular provision as to—
   (a) the appointment of staff,
   (b) the numbers of staff,
   (c) the terms and conditions of staff.
(3) Provision as to a matter mentioned in subsection (2)(a), (b) or (c) may include provision making the matter subject to the determination, direction or agreement of any person.

(4) Without prejudice to section 49(1)(a), an order under this section may make different provision in relation to different integration joint boards.

12 **Integration joint boards: further provision**

(1) The Scottish Ministers may by order make provision—

(a) about the membership of integration joint boards,

(b) about the proceedings of integration joint boards,

(c) giving integration joint boards general powers (such as powers to contract, acquire or dispose of property or rights or borrow money or incur other liabilities) in connection with the carrying out of their functions,

(d) about the supply of services or facilities to integration joint boards by a local authority or Health Board,

(e) about any other matter relating to the establishment or operation of integration joint boards that the Scottish Ministers think fit.

(2) Without prejudice to section 49(1)(a), an order under this section may make different provision in relation to different integration joint boards.

(3) The Scottish Ministers may by scheme make provision about the transfer to an integration joint board of staff, property, rights, liabilities or obligations of a local authority or a Health Board.

13 **Payments to integration joint boards in respect of delegated functions**

(1) Subsections (2) and (3) apply where—

(a) an integration plan sets out that the integration model in section 1(4)(a) is to apply, and

(b) the plan is approved by the Scottish Ministers under section 7.

(2) The local authority must make a payment to the integration joint board of the amount calculated in accordance with the method of calculation set out in the plan in relation to each function delegated by it.

(3) The Health Board must make a payment to the integration joint board of the amount calculated in accordance with the method of calculation set out in the plan in relation to each function delegated by it.

14 **Functions delegated to local authority or Health Board**

(1) This section applies where the Scottish Ministers approve under section 7 an integration plan setting out that the integration model in section 1(4)(b), (c) or (d) is to apply.

(2) Before the prescribed day—

(a) the local authority and the Health Board must jointly establish a committee (an “integration joint monitoring committee”) for the purpose of monitoring the carrying out of the integration functions for the area of the local authority,

(b) the functions are to be delegated.
15 **Transfer of staff where functions delegated to local authority or Health Board**

(1) The Scottish Ministers may by scheme make provision about the transfer of staff from a person who is to delegate functions under an integration plan falling within subsection (2) to the person to whom the functions are to be delegated.

(2) An integration plan falls within this subsection if it sets out that the integration model in section 1(4)(b), (c) or (d) is to apply.

16 **Integration joint monitoring committees: further provision**

(1) The Scottish Ministers may by order make provision about—

(a) the establishment of integration joint monitoring committees,

(b) the membership of integration joint monitoring committees,

(c) the proceedings of integration joint monitoring committees,

(d) any other matter relating to the operation of integration joint monitoring committees that the Scottish Ministers think fit.

(2) Without prejudice to section 49(1)(a), an order under subsection (1) may make different provision in relation to different integration joint monitoring committees.

17 **Payments to Health Boards in respect of delegated functions**

(1) Subsection (2) applies where—

(a) an integration plan sets out that the integration model in section 1(4)(b) or (d) is to apply, and

(b) the plan is approved by the Scottish Ministers under section 7.

(2) The local authority must make a payment to the Health Board of the amount calculated in accordance with the method of calculation that is set out in the plan in relation to each function delegated to the Health Board.

18 **Payments to local authorities in respect of delegated functions**

(1) Subsection (2) applies where—

(a) an integration plan sets out that the integration model in section 1(4)(c) or (d) is to apply, and

(b) the plan is approved by the Scottish Ministers under section 7.

(2) The Health Board must make a payment to the local authority of the amount calculated in accordance with the method of calculation that is set out in the plan in relation to each function delegated to the local authority.

19 **Transfer of staff: effect on contract of employment**

(1) This section applies where by virtue of section 12(3) or 15(1) a person is to be transferred from the employment of one person (“the original employer”) to another (“the new employer”).
(2) If, before the day of the transfer, the person informs the original employer that the person does not wish to become an employee of the new employer, the person’s contract of employment is terminated on the day before the day of the transfer.

(3) Otherwise—
   (a) the contract of employment between the person and the original employer has effect on and after the day of the transfer as if originally made between the person and the new employer,
   (b) the rights, powers, duties and liabilities of the original employer under or in connection with the contract of employment are by virtue of this section transferred to the new employer on the day of the transfer, and
   (c) anything done before the day of the transfer by or in relation to the original employer in respect of the contract of employment or the person is to be treated on and after that day as having been done by or in relation to the new employer.

(4) A person is not to be treated for any purpose as being dismissed by reason of the operation of any provision of this section in relation to the person.

(5) Nothing in this section affects any right of a person to terminate the person’s contract of employment if a substantial detrimental change in the person’s working conditions is made.

(6) No such right arises by reason only that, by virtue of this section, the identity of the person’s employer changes.

20 Co-operation

(1) This section applies where the Scottish Ministers approve under section 7 one or more plans prepared by virtue of section 2(3) or (4) in relation to the same Health Board.

(2) The persons mentioned in subsection (3) must co-operate with each other in relation to the efficient and effective use of buildings, staff and equipment to which the plan or plans relate.

(3) The persons are—
   (a) each local authority,
   (b) the Health Board.

30 Carrying out of delegated functions

21 Effect of delegation of functions

(1) This section applies where a function is delegated in pursuance of an integration plan.

(2) The person to whom the function is delegated—
   (a) is subject to the same duties in connection with the carrying out of the function as the person who delegated the function would have been subject in the event that the function had not been delegated,
   (b) has the same rights and powers (including in particular powers to make payments or impose charges) in connection with the carrying out of the function as the person who delegated the function would have had in the event that the function had not been delegated,
   (c) is in all respects as if the person who delegated the function—
(i) entitled to enforce any rights acquired in the carrying out of the function,
(ii) liable in respect of any liabilities incurred (including in particular liability in damages for wrongful or negligent acts or omissions) in the carrying out of the function.

(3) In subsection (2)—
(a) the reference in paragraph (a) to duties includes duties imposed after the delegation takes place,
(b) the reference in paragraph (b) to rights and powers includes rights or powers conferred after the delegation takes place.

(4) All proceedings for the enforcement of rights or liabilities mentioned in subsection (2)(c) are to be brought by or against the person to whom the function is delegated in the person’s own name.

(5) The Scottish Ministers may by order provide that an integration joint board must or must not exercise a power conferred by virtue of subsection (2)(b).

22 Further powers of persons to whom functions are delegated

(1) In addition to the powers conferred by section 21(2)(b)—
(a) an integration joint board may by direction specify that a function delegated to it in pursuance of an integration plan is to be carried out on its behalf by the local authority or Health Board which prepared the integration plan,
(b) a local authority or Health Board to which a function is delegated in pursuance of an integration plan may by direction specify that the function is to be carried out on its behalf by the local authority or Health Board which delegated the function in pursuance of the plan.

(2) A direction under subsection (1)—
(a) may include provision—
(i) about the manner in which the function is to be carried out,
(ii) about the rights, powers, duties or liabilities of the person who is to carry out the function,
(b) must set out, or set out a method of calculating, payments that are to be made by the person giving the direction to the person who is to carry out the function.

(3) A person giving a direction under subsection (1) must make payments in accordance with the provision included in the direction by virtue of subsection (2)(b).

(4) Where a person is carrying out a function by virtue of a direction under subsection (1), subsections (2) to (4) of section 21 apply as if—
(a) the person were a person to whom the function had been delegated under those subsections,
(b) the person who gave the direction were a person who had delegated the function under those subsections.

(5) Subsection (4) is subject to any provision included in the direction by virtue of subsection (2)(a)(ii).
(6) A person to whom a direction under subsection (1) is given must comply with the direction.

(7) A direction under subsection (1)—

   (a) may vary or revoke any earlier direction under this section,

   (b) must be in writing.

(8) The Scottish Ministers may by order provide that an integration joint board must or must not give a direction under subsection (1).

Strategic planning etc.

23 Requirement to prepare strategic plans

(1) The integration authority for the area of a local authority must prepare strategic plans in accordance with this section.

(2) A strategic plan is a document—

   (a) setting out the arrangements for the carrying out of the integration functions for the area of the local authority over the period of the plan,

   (b) setting out how those arrangements are intended to achieve, or contribute to achieving, the national health and wellbeing outcomes, and

   (c) including such other material as the integration authority thinks fit.

(3) The provision required to be included in a strategic plan by virtue of subsection (2)(a) is to include provision—

   (a) dividing the area of the local authority into two or more localities, and

   (b) setting out separately arrangements for the carrying out of the integration functions in relation to each such locality.

(4) The first strategic plan of an integration authority is—

   (a) to be prepared before the prescribed day, and

   (b) to relate to the period of 3 years beginning with the prescribed day.

(5) Subsequent strategic plans of an integration authority are—

   (a) to be prepared before each anniversary of the day prescribed under subsection (4)(b), and

   (b) to relate to the period of 3 years beginning with the anniversary mentioned in paragraph (a) by reference to which the plan is to be prepared.

24 Considerations in preparing strategic plan

In preparing a strategic plan, the integration authority for the area of a local authority must have regard to—

   (a) the integration delivery principles (see section 25), and

   (b) the national health and wellbeing outcomes (see section 5).

25 Integration delivery principles

(1) The integration delivery principles are—
(a) that the main purpose of services which must or may be provided in pursuance of
the integration functions for the area of the local authority is to improve the
wellbeing of recipients,

(b) that, in so far as consistent with the main purpose, those services should be
provided in the way which, so far as possible—

(i) is integrated from the point of view of recipients,

(ii) takes account of the particular needs of different recipients,

(iii) takes account of the particular needs of recipients in different parts of the
area in which the service is being provided,

(iv) is planned and led locally in a way which is engaged with the community
and local professionals,

(v) best anticipates needs and prevents them arising, and

(vi) makes the best use of the available facilities, people and other resources.

(2) In subsection (1), “recipients” means persons to whom or in relation to whom the
services are provided.

26 Establishment of consultation group

(1) For the purpose of preparing a strategic plan, an integration authority in relation to the
area of a local authority is to establish a group comprising—

(a) where the integration authority is an integration joint board, one person nominated
by each of the local authority and the Health Board which prepared the integration
plan in pursuance of which the integration authority was established,

(b) where the integration authority is a Health Board, one person nominated by the
local authority with which the integration authority prepared the integration plan
in pursuance of which the integration authority acquired its functions,

(c) where the integration authority is a local authority, one person nominated by the
Health Board with which the integration authority prepared the integration plan in
pursuance of which the integration authority acquired its functions,

(d) one person in respect of each of the groups mentioned in subsection (2), being a
person who the integration authority considers to be representative of that group, and

(e) such other persons as the integration authority considers appropriate.

(2) The groups referred to in subsection (1)(d) are such groups of persons appearing to the
Scottish Ministers to have an interest as may be prescribed.

(3) The procedure of the group is to be such as the authority determines.

(4) The integration authority may pay to members of the group such expenses and
allowances as the authority determines.

27 Steps following establishment of consultation group

(1) Having established a group under section 26, an integration authority in relation to the
area of a local authority is to—

(a) prepare proposals for what the strategic plan should contain, and
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(b) seek the views of the group on the proposals.

(2) Taking account of any views expressed by virtue of subsection (1)(b), the integration authority is then to—

(a) prepare a first draft of the strategic plan, and
(b) seek the views of the group on the draft.

(3) Taking account of any views expressed by virtue of subsection (2)(b), the integration authority is then to—

(a) prepare a second draft of the strategic plan,
(b) send a copy to—

(i) the persons mentioned in subsection (4), and
(ii) such other persons as it considers appropriate, and
(c) invite the recipients to express views (within such period as the integration authority considers appropriate) on the draft.

(4) The persons referred to in subsection (3)(b)(i) are—

(a) where the integration authority is an integration joint board, the local authority and the Health Board which prepared the integration plan in pursuance of which the integration joint board was established,
(b) where the integration authority is a local authority, the Health Board with which the local authority prepared the integration plan in pursuance of which the integration authority acquired its delegated functions,
(c) where the integration authority is a Health Board, the local authority with which the Health Board prepared the integration plan in pursuance of which the integration authority acquired its delegated functions, and
(d) persons who the integration authority considers to be representative of each of the groups mentioned in subsection (5).

(5) The groups referred to in subsection (4)(d) are such groups of persons appearing to the Scottish Ministers to have an interest as may be prescribed.

(6) In finalising the strategic plan, the integration authority must take account of any views expressed by virtue of subsection (3)(c).

28 Requirement for agreement to certain strategic plans

(1) This section applies in relation to a strategic plan prepared by an integration authority which is a Health Board or a local authority.

(2) After finalising the plan, the integration authority must submit it to the person mentioned in subsection (3) for approval.

(3) That person is—

(a) where the integration authority is a local authority, the Health Board with which the integration authority prepared the integration plan in pursuance of which the integration authority acquired its delegated functions,
(b) where the integration authority is a Health Board, the local authority with which the integration authority prepared the integration plan in pursuance of which the integration authority acquired its delegated functions.
(4) If that person does not approve the plan, the integration authority must modify the plan and submit it for approval under subsection (2).

29 Publication of strategic plans

(1) As soon as practicable after the occurrence of the event mentioned in subsection (2), an integration authority must publish its strategic plan.

(2) That event is—

(a) where the integration authority is an integration joint board, the finalisation of the plan under section 27,

(b) where the integration authority is a local authority and a Health Board acting jointly, the finalisation of the plan under section 27,

(c) where the integration authority is a Health Board or a local authority, the agreement of the plan under section 28.

(3) At the same time as publishing a strategic plan, an integration authority must also publish a statement of the action which it took in pursuance of section 27.

30 Significant decisions outside strategic plan: public involvement

(1) This section applies where the integration authority for the area of a local authority—

(a) proposes to take a significant decision about the arrangements for the carrying out of the integration functions for the area of the authority, and

(b) intends the decision to take effect other than in its next strategic plan.

(2) In subsection (1)(a), “significant decision” means a decision which the integration authority considers might significantly affect the provision of a service provided in pursuance of the integration functions in the area of the local authority.

(3) The integration authority must take such action as it thinks fit with a view to securing that persons mentioned in subsection (4) are involved in and consulted on the decision.

(4) Those persons are users of the service which is being or may be provided.

Carrying out of integration functions

31 Carrying out of integration functions: general

In carrying out an integration function for the area of a local authority, a person must have regard to—

(a) the integration delivery principles (see section 25), and

(b) the national health and wellbeing outcomes (see section 5).

32 Carrying out of integration functions: localities

(1) This section applies where a person carrying out an integration function for the area of a local authority proposes to take a decision which the person considers might significantly affect the provision in a locality of the area of a service provided in pursuance of the function.

(2) In subsection (1), “locality” means a locality of an area as set out in the strategic plan in pursuance of section 23(3)(a).
(3) The person must take such action as the person thinks fit with a view to securing that the groups mentioned in subsection (4) are involved in and consulted on the decision.

(4) The groups referred to in subsection (3) are such groups of persons appearing to the Scottish Ministers to have an interest as may be prescribed.

33 Integration authority: performance report

(1) Each integration authority must prepare and publish a performance report for the reporting year.

(2) A performance report is a report setting out an assessment of performance during the reporting year in carrying out the integration functions for the area of the local authority.

(3) The Scottish Ministers may by regulations prescribe—
   (a) the form and content of performance reports,
   (b) the period during which performance reports must be published.

(4) In this section, “reporting year”, in relation to an integration authority, means—
   (a) the period beginning with the date prescribed under section 23(4)(b) and ending on the first anniversary of that date, and
   (b) each subsequent period of a year.

34 Revised integration plan

(1) This section applies where an integration plan has been approved by the Scottish Ministers under section 7.

(2) The local authority and the Health Board may vary the plan by jointly preparing a revised integration plan.

(3) A revised integration plan may—
   (a) set out additional functions that are to be delegated under the plan as mentioned in section 1(3)(b),
   (b) set out functions that are delegated by virtue of the integration plan approved under section 7 that are no longer to be delegated,
   (c) if the integration plan delegates functions in accordance with the integration model mentioned in section 1(4)(b), (c) or (d), set out functions that are to be carried out in conjunction with the delegated functions,
   (d) if the integration plan delegates functions in accordance with the integration model mentioned in section 1(4)(b), (c) or (d), set out functions that are no longer to be carried out in conjunction with the delegated functions,
   (e) change the method of calculating payments as mentioned in section 1(3)(d).

(4) The local authority and the Health Board must jointly submit the revised plan to the Scottish Ministers for approval under section 7.

(5) A revised integration plan takes effect on such day as may be specified by the Scottish Ministers.
35  **New integration plan**

(1) This section applies where an integration plan has been approved by the Scottish Ministers under section 7.

(2) If the local authority and the Health Board wish to change any of the matters mentioned in subsection (3) they must prepare a new integration plan under section 1.

(3) The matters are—

   (a) the local authority which prepared the integration plan,

   (b) the integration model.

36  **Power to make provision in consequence of new integration plan**

(1) This section applies where the Scottish Ministers approve a new integration plan which has been prepared by virtue of section 35.

(2) In consequence of the replacement of an integration plan by a new integration plan, the Scottish Ministers may by order provide for the winding-up of an integration joint board.

(3) In consequence of the replacement of an integration plan by a new integration plan, the Scottish Ministers may by scheme make such provision about the transfer of staff, property, rights, liabilities or obligations of an integration joint board, a local authority or a Health Board as they consider necessary.

**Supplementary**

37  **Information-sharing**

(1) Where a local authority and a Health Board are jointly preparing an integration plan, each of them may disclose information to the other for or in relation to the purpose of preparing the plan.

(2) Where two or more local authorities and a Health Board are jointly preparing an integration plan, each of them may disclose information to any of the others for or in relation to the purpose of preparing the plan.

(3) A person mentioned in subsection (4) may disclose information to any other person mentioned in that subsection for or in relation to any of the purposes mentioned in subsection (5).

(4) The persons are—

   (a) a local authority,

   (b) a Health Board,

   (c) an integration joint board.

(5) The purposes are—

   (a) functions that are delegated by virtue of an integration plan approved under section 7,

   (b) functions that are to be carried out in conjunction with delegated functions,

   (c) the preparation of a strategic plan.
(6) Subsections (1) to (3) apply despite any duty of confidentiality owed to any person in respect of the information by the person disclosing the information.

38 Grants to local authorities

(1) The Scottish Ministers may make a grant to a local authority in respect of costs incurred by the authority by virtue of this Part.

(2) The payment of a grant under subsection (1) may be made subject to such conditions (including conditions as to repayment) as the Scottish Ministers may determine.

39 Default power of Scottish Ministers

(1) Subsection (2) applies where a local authority and a Health Board fail before the day prescribed for the purposes of section 7 to submit an integration plan for the approval of the Scottish Ministers under that section.

(2) The Scottish Ministers may—
(a) specify functions of the local authority and the Health Board which are to be delegated to an integration joint board,
(b) by order establish the integration joint board to which the functions are to be delegated,
(c) require the local authority and the Health Board to delegate the specified functions to the integration joint board before the prescribed day,
(d) require the local authority and the Health Board to make such payments to the integration joint board as the Scottish Ministers may specify, and
(e) require the local authority and the Health Board to comply with such other requirements in relation to the functions as the Scottish Ministers may specify.

40 Directions

(1) The Scottish Ministers may give directions to a local authority in relation to the carrying out of—
(a) functions conferred on it by this Act,
(b) functions delegated to it in pursuance of an integration plan,
(c) functions specified in the plan that are to be carried out in conjunction with those functions.

(2) The Scottish Ministers may give directions to a Health Board in relation to the carrying out of—
(a) functions conferred on it by this Act,
(b) functions delegated to it in pursuance of an integration plan,
(c) functions specified in the plan that are to be carried out in conjunction with those functions.

(3) The Scottish Ministers may give directions to an integration joint board in relation to the carrying out of—
(a) functions conferred on it by this Act,
(b) functions delegated to it in pursuance of an integration plan.
(4) A local authority, a Health Board or an integration joint board must comply with a direction given to it under this section.

(5) Directions under this section—
   (a) may vary or revoke earlier directions under this section,
   (b) must be in writing.

41 Guidance

Each local authority, Health Board and integration joint board must have regard to any guidance issued by the Scottish Ministers about their functions under or in relation to this Act.

42 Meaning of “integration authority”

For the purposes of this Part, the “integration authority” for the area of a local authority is—
   (a) where in pursuance of the integration plan for the area functions are delegated in accordance with the integration model mentioned in section 1(4)(a), the integration joint board established in pursuance of the plan,
   (b) where in pursuance of the integration plan for the area functions are delegated in accordance with the integration model mentioned in section 1(4)(b), the Health Board to which the functions are delegated,
   (c) where in pursuance of the integration plan for the area functions are delegated in accordance with the integration model mentioned in section 1(4)(c), the local authority to which the functions are delegated,
   (d) where in pursuance of the integration plan for the area functions are delegated in accordance with the integration model mentioned in section 1(4)(d), the local authority and the Health Board to which the functions are delegated, acting jointly.

43 Meaning of “integration functions”

(1) For the purposes of this Part, the “integration functions” for the area of a local authority are—
   (a) where in pursuance of the integration plan for the area functions are delegated in accordance with the integration model mentioned in section 1(4)(a), the functions delegated to the integration joint board in pursuance of the plan,
   (b) where in pursuance of the integration plan for the area functions are delegated in accordance with the integration model mentioned in section 1(4)(b)—
      (i) the functions delegated to the Health Board in pursuance of the plan, and
      (ii) the functions to be carried out in conjunction with those functions,
   (c) where in pursuance of the integration plan for the area functions are delegated in accordance with the integration model mentioned in section 1(4)(c)—
      (i) the functions delegated to the local authority in pursuance of the plan, and
      (ii) the functions to be carried out in conjunction with those functions,
(d) where in pursuance of the integration plan for the area functions are delegated in accordance with the integration model mentioned in section 1(4)(d)—

(i) the functions delegated to each of the Health Board and the local authority in pursuance of the plan, and

(ii) the functions to be carried out in conjunction with those functions.

(2) In subsection (1), the references to the functions which are to be carried out in conjunction with delegated functions are to the functions set out in the integration plan in pursuance of section 1(3)(c).

**Part 2**

**Shared services**

(1) The Common Services Agency for the Scottish Health Service (the “Agency”) may, with the consent of the Scottish Ministers, enter into arrangements with a person mentioned in subsection (2) under which the Agency provides, or secures the provision of, any goods or services for the person.

(2) The persons are—

(a) the Scottish Ministers,

(b) any other office-holder in the Scottish Administration,

(c) any Scottish public authority,

(d) any Scottish public authority with mixed functions or no reserved functions,

(e) any government department,

(f) any cross-border public authority.

(3) Services which may be provided under subsection (1) include in particular—

(a) administrative services,

(b) technical services,

(c) legal services.

(4) The power to make arrangements under subsection (1) is without prejudice to any other power of the Agency to provide goods or services to other persons.

(5) In this section—

“cross-border public authority” has the meaning given by section 88(5) of the Scotland Act 1998 (c.46),

“government department”, and “Scottish public authority” have the meanings given by section 126(1) of that Act,

“office-holder in the Scottish Administration” is to be construed in accordance with section 126(7) of that Act,

“Scottish public authority with mixed functions or no reserved functions” is to be construed in accordance with paragraphs 1 and 2 of Part 3 of Schedule 5 to that Act.
45 Extension of schemes for meeting losses and liabilities of health service bodies

(1) Section 85B of the National Health Service (Scotland) Act 1978 (schemes for meeting losses and liabilities of health service bodies) is amended as follows.

(2) In subsection (2)—

(a) the word “and” immediately after paragraph (ea) is repealed,

(b) after paragraph (f) add—

“(g) local authorities; and

(h) integration joint boards established by order under section 9(2) of the 2014 Act,”.

(3) After subsection (2A) insert—

“(2B) The reference—

(a) in paragraph (a) of subsection (1) to property of a local authority is to be construed as a reference to property held by a local authority in connection with the exercise of its relevant functions;

(b) in paragraph (b) of that subsection to the functions of a local authority is to be construed as a reference to the relevant functions of a local authority.

(2C) In subsection (2B), “relevant functions” means—

(a) integration functions; and

(b) such other functions as the Scottish Ministers may by order specify.

(2D) In subsection (2C)(a), “integration functions” means functions which in pursuance of an integration plan under the 2014 Act are—

(a) delegated to the authority;

(b) to be carried out in conjunction with functions delegated to the authority (that is, functions set out in the integration plan in pursuance of section 1(3)(c) of that Act); or

(c) to be carried out by the authority by virtue of a direction under section 22 of the 2014 Act.”.

(4) After subsection (4) insert—

“(4A) Subsection (4)(a) does not apply in relation to a local authority.”.

(5) After subsection (5) insert—

“(6) In this section, “the 2014 Act” means the Public Bodies (Joint Working) (Scotland) Act 2014.”.

PART 3

HEALTH SERVICE: FUNCTIONS

46 Scottish Ministers: power to form companies etc.

In section 84B of the National Health Service (Scotland) Act 1978 (joint ventures)—
(a) in subsection (1), for “companies”, wherever it occurs, substitute “bodies corporate”,
(b) in subsection (2), for “company” substitute “body corporate”, and
(c) in subsection (3), the definition of “companies” is repealed.

47 Health Boards: carrying out of functions
After section 12J of the National Health Service (Scotland) Act 1978, insert—
“12K Power of Health Board to carry out other Health Board’s functions
A Health Board may, with the agreement of another Health Board and the Scottish Ministers, carry out on behalf of that other Health Board any function of that other Health Board.”.

PART 4
GENERAL

48 Interpretation
(1) In this Act—
“Health Board” has the meaning given by section 1(7),
“health care” has the same meaning as in section 10A(1)(b) of the National Health Service (Scotland) Act 1978,
“health professionals” means persons of such description engaged in the provision of health care as may be prescribed,
“integration joint board” has the meaning given by section 1(4)(a),
“integration joint monitoring committee” has the meaning given by section 14(2)(a),
“integration plan” has the meaning given by section 1(3),
“prescribed” means prescribed by the Scottish Ministers by regulations,
“social care” means—
(a) social services (having the same meaning as in Part 5 of the Public Services Reform (Scotland) Act 2010), and
(b) such functions of local authorities relating to the provision of accommodation for persons who are homeless as may be prescribed,
“social care professionals” means persons of such description engaged in the provision of social care as may be prescribed,
“strategic plan” has the meaning given by section 23(2).
(2) For the purposes of this Act, a provider of a service is a “commercial” provider if the aim of the person in providing the service is or includes making a profit.
(3) References in this Act (other than sections 2(3) and 37(1))—
(a) to a local authority include, in the case where the integration plan is being or has been jointly prepared under section 2(4), references to both or all the authorities which are preparing or have prepared the plan, acting jointly,
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(b) to the area of a local authority mean, in a case where the integration plan is being or has been jointly prepared under section 2(4), the combined area of the local authorities which are preparing or have prepared the plan.

(4) References in this Act to a function include references to a function so far as exercisable in relation to persons or matters of a particular class or description.

49 Subordinate legislation

(1) Regulations and orders under this Act may—
   (a) make different provision for different purposes,
   (b) include such supplementary, incidental, consequential, transitional or transitory provision, or savings, as the Scottish Ministers consider appropriate.

(2) Regulations under section 5(1) are subject to the affirmative procedure.

(3) An order under section 50 containing provision which adds to, replaces or omits any part of the text of an Act is subject to the affirmative procedure.

(4) Otherwise, regulations and orders under this Act are subject to the negative procedure.

(5) This section does not apply to an order under section 52(2).

50 Ancillary provision

(1) The Scottish Ministers may by order—
   (a) make such supplementary, incidental or consequential provision as they consider appropriate for the purposes of, in consequence of, or for giving full effect to, any provision of this Act,
   (b) make such transitional or transitory provision or savings as they consider appropriate for the purposes of, or in connection with, the coming into force of any provision of this Act.

(2) An order under this section may modify any enactment (including this Act).

51 Repeals

(1) Sections 4A and 4B of the National Health Service (Scotland) Act 1978 (c.29) (which make provision about community health partnerships) are repealed.

(2) Sections 15 to 17 of the Community Care and Health (Scotland) Act 2002 (asp 5) (which make provision about joint working among local authorities and certain health bodies) are repealed.

(3) Section 2 of the National Health Service Reform (Scotland) Act 2004 (asp 7) (which inserts sections 4A and 4B into the National Health Service (Scotland) Act 1978) is repealed.

(4) Section 20 of the Social Care (Self-directed Support) (Scotland) Act 2013 (asp 1) (which amends section 15(4) of the Community Care and Health (Scotland) Act 2002) is repealed.

52 Commencement

(1) This Part (other than sections 48 and 51) comes into force on the day after Royal Assent.
(2) The other provisions of this Act come into force on such day as the Scottish Ministers may by order appoint.

(3) An order under subsection (2) may contain transitory or transitional provision or savings.

53 **Short title**

The short title of this Act is the Public Bodies (Joint Working) (Scotland) Act 2014.
Public Bodies (Joint Working) (Scotland) Bill
[AS INTRODUCED]

An Act of the Scottish Parliament to make provision in relation to the carrying out of functions of local authorities and Health Boards; to make further provision about certain functions of public bodies; to make further provision in relation to certain functions under the National Health Service (Scotland) Act 1978; and for connected purposes.

Introduced by: Alex Neil
Supported by: Derek Mackay
On: 28 May 2013
Bill type: Government Bill