

# National Care Service (Scotland) Bill

[DRAFT SHOWING SG PROPOSED AMENDMENTS JUNE 2024]

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**THE FOLLOWING ACCOMPANYING DOCUMENTS ARE ALSO PUBLISHED: Explanatory Notes (SP Bill 17-EN), a Financial Memorandum (SP Bill 17-FM), a Policy Memorandum (SP Bill 17-PM), a Delegated Powers Memorandum (SP Bill 17-DPM) and statements on legislative competence (SP Bill 17-LC).**

# National Care Service (Scotland) Bill

[DRAFT SHOWING SG PROPOSED AMENDMENTS JUNE 2024]

An Act of the Scottish Parliament to establish the National Care Service; to make provision about the processing of health and social care information; to make provision about the delivery and regulation of social care; and for connected purposes.

## PART 1

### THE NATIONAL CARE SERVICE

#### CHAPTER 1

THE PRINCIPLES AND ~~INSTITUTIONS~~ FOUNDATIONAL DOCUMENTS OF THE NATIONAL CARE SERVICE

#### *Principles*

#### **1 The National Care Service principles**

**(1)** The National Care Service principles are—

- (a) the services provided by the National Care Service are to be regarded as an investment in society that—
  - (i) is essential to the realisation of human rights,
  - (ii) enables people to thrive and fulfil their potential, and
  - (iii) enables communities to flourish and prosper,
- (b) for them to be such an investment, the services provided by the National Care Service must be financially stable in order to give people long-term security,
- (c) services provided by the National Care Service are to be centred around **early interventions** addressing individual needs, recognising the diverse characteristics and circumstances of the individuals to whom the services are provided, whether those needs are (for example)—
  - (i) best addressed by early interventions, including rehabilitation, that prevent or delay the development of care needs and reduce care needs that already exist,
  - (ii) best addressed by the provision of support for an individual living independently in the community,

- (iii) ongoing, increasing or increasingly complex,
- (d) services provided by the National Care Service are to be designed—
  - (i) collaboratively with the people to whom they are provided and their carers,
  - (ii) so that they are experienced by those people and carers as integrated.
- (e) opportunities are to be sought to continuously improve the services provided by the National Care Service in ways which—
  - (zi) take account of the whole life experience (including any psychological trauma) of the individual,
  - (i) promote the dignity of the individual, ~~and~~
  - (ii) advance equality and non-discrimination, and
  - (iii) otherwise give better and further effect to these principles,
- (ea) services provided by the National Care Service are to protect and improve the safety of the persons to whom the services are provided,
- (f) the National Care Service, ~~and those providing services on its behalf, are~~ workforce is to communicate with people in an inclusive way, which means ensuring that ~~individuals who have difficulty communicating (in relation to speech, language or otherwise)~~ the diverse communication needs of individuals (in relation to speech, language or otherwise) are recognised, in particular so that individuals can receive information and express themselves in ways that best meet their individual needs,
- ~~(g) the National Care Service is to be an exemplar in its approach to fair work for the people who work for it and on its behalf, ensuring that they are recognised and valued for the critically important work that they do.~~
- (h) the individuals comprising the National Care Service workforce are to be recognised and valued for the critically important work they do, and the persons who employ or otherwise professionally engage them are to be exemplars in so doing in their approach to fair work.
- (2) In subsection (1), “human rights” includes the rights contained in any international convention, treaty or other international instrument ratified by the United Kingdom, subject to—
  - (a) any amendments in force in relation to the United Kingdom for the time being, and
  - (b) any reservations, objections or interpretative declarations by the United Kingdom for the time being in force.

## **1A Reviewing the principles**

- (1) The Scottish Ministers must—
  - (a) first review the National Care Service principles within 5 years of the day on which section 1 came into force,
  - (b) after that, review the principles within 5 years of the last review concluding.



- (2) In reviewing the National Care Service principles, the Scottish Ministers must—
- (a) consult—
    - (i) the National Care Service Board, and
    - (ii) any other person they consider appropriate.
  - (b) have particular regard to the importance of eliciting the views of—
    - (i) the individuals to whom the National Care Service provides services.
    - (ii) individuals with a personal interest in the wellbeing of others to whom the National Care Service provides a service (for example family members and carers).
    - (iii) individuals who are employed or otherwise professionally engaged in the provision of services by the National Care Service.

### **1B Power to modify the principles**

The Scottish Ministers may by regulations amend section 1 so as to add, remove or alter a principle.

#### *The National Care Service strategy*

### **1C The National Care Service strategy**

- (1) The Scottish Ministers must—
- (a) prepare a strategy document, and
  - (b) make it publicly available.
- (2) A strategy document prepared under this section is to set out—
- (a) the main challenges that the National Care Service institutions are to focus on addressing.
  - (b) the action that the Scottish Ministers propose to take, and consider that the National Care Service institutions should take, to address those challenges.
- (3) In this Part, references to the National Care Service strategy are to the document most recently made publicly available in accordance with this section.
- (4) In this section, “the National Care Service institutions” means—
- “National Care Service institutions” means—
- (a) the National Care Service Board,
  - (b) National Care Service local boards,
  - (c) health boards, but only in relation to their carrying out of integration functions,
  - (d) local authorities, but only in relation to their carrying out of integration functions.

“integration functions” has the meaning given by section 60 of the Public Bodies (Joint Working) (Scotland) Act 2014.

### **1D** **Preparing the strategy**

- (1) In preparing a strategy document under section (*The National Care Service strategy*), the Scottish Ministers are to—

  - (a) have regard to the National Care Service principles, and
  - (b) consult the public in Scotland and the persons mentioned in subsection (2).

- (2) The persons referred to in subsection (1)(b) are—
  - (a) the National Care Service Board,
  - (b) National Care Service local boards,
  - (c) local authorities,
  - (d) health boards.
- (3) The requirement under subsection (1) to consult the National Care Service Board and National Care Service local boards does not apply in relation to the first strategy document to be prepared.

### **1E** **Reviewing the strategy**

- (1) The Scottish Ministers are to review the National Care Service strategy within the period of 5 years beginning with—
  - (a) its first being made publicly available in accordance with section (*The National Care Service strategy*)(1)(b), or
  - (b) if the strategy has previously been reviewed under this section, the day the last review of it concluded.
- (2) If, having carried out a review, the Scottish Ministers decide not to prepare a new strategy document under section (*The National Care Service strategy*), they must make publicly available a statement explaining why in their view the latest one remains appropriate.

#### *The National Care Service charter*

### **11** **The National Care Service charter**

- (1) The Scottish Ministers must—
  - (a) prepare a charter (“the National Care Service charter”), and
  - (b) make it publicly available.
- (2) The charter is to contain—
  - (a) a summary of the rights and responsibilities in relation to the services provided by the National Care Service of—
    - (i) the individuals to whom the National Care Service provides services,

- (ii) any individual who has a personal interest in the wellbeing of another individual to whom the National Care Service provides a service (for example a family member or a carer),
  - (iii) any other category of person whose rights and responsibilities in relation to [the services provided by](#) the National Care Service the Scottish Ministers consider it appropriate to summarise in the charter,
- (b) a description of the processes available for upholding the rights ~~in relation to the National Care Service of the persons whose rights and responsibilities~~ [that](#) the charter summarises.
- (3) The charter may include any other information the Scottish Ministers consider appropriate.
- (4) Nothing in the charter is to—
  - (a) give rise to any new rights,
  - (b) impose any new responsibilities, or
  - (c) alter in any way an existing right or responsibility.

## 12 Further provision about the charter

- (1) In preparing and reviewing the National Care Service charter, the Scottish Ministers must—
  - (a) consult any person they consider appropriate,
  - (b) have particular regard to the importance of eliciting the views of—
    - ~~(i) the individuals to whom the National Care Service provides services, and~~
    - ~~(ii) the persons who provide services on behalf of the National Care Service.~~
    - (i) [individuals whose rights and responsibilities in relation to the services provided by the National Care Service are, or are to be, summarised in the charter in accordance with section 11\(2\)\(a\), and](#)
    - (ii) [individuals who are employed or otherwise professionally engaged in the provision of services by the National Care Service.](#)
- (2) The Scottish Ministers must lay before the Scottish Parliament a copy of—
  - (a) the first version of the charter, and
  - (b) any new version resulting from their making changes following a review.
- (3) The Scottish Ministers must—
  - (a) first review the charter within 5 years of a copy of the first version being laid before the Scottish Parliament, and
  - (b) after that, review it within 5 years of the last review concluding.
- (4) Following a review of the charter, the Scottish Ministers may make any changes to it that they consider appropriate.
- [\(4A\) The Scottish Ministers may delegate to the National Care Service Board, or any other person they consider appropriate, a function \(to any extent they choose\) under any of the following provisions—](#)

(a) [section 11](#),

(b) [subsections \(1\), \(3\) and \(4\) of this section](#).

- (5) ~~In the period before any regulations under a section in Chapter 6 have come into force, references in this section and section 11 to individuals to whom the National Care Service provides services are to be read as references to the individuals to whom the Scottish Ministers expect the National Care Service will provide services within 12 months.~~
- (6) For the purposes of subsection (1), it is immaterial that anything done by way of consultation was done before the Bill for this Act was passed or after that but before this section comes into force.

## **12A Raising awareness of the charter**

[The National Care Service Board is to promote public awareness of the National Care Service charter.](#)

### *The Scottish Government*

## **~~2~~ ~~Responsibility for the National Care Service~~**

- (1) ~~It is the duty of the Scottish Ministers to promote in Scotland a care service designed to secure improvement in the wellbeing of the people of Scotland.~~
- (2) ~~Everything that the Scottish Ministers do in discharging that duty is to be done in the way that seems to them to best reflect the National Care Service principles.~~

## **~~3~~ ~~Responsibility for improvement~~**

~~It is the duty of the Scottish Ministers to put and keep in place arrangements for the purpose of monitoring and improving the quality of the services that the National Care Service provides.~~

### *Care boards*

## **~~4~~ ~~Establishment and abolition of care boards~~**

- (1) ~~The Scottish Ministers may by regulations—~~
- ~~(a) establish bodies to be known as care boards;~~
  - ~~(b) abolish a care board.~~
- (2) ~~The power conferred by subsection (1) must be exercised so that—~~
- ~~(a) there are care boards with responsibility for particular geographical areas, and~~
  - ~~(b) those boards' areas—~~
    - ~~(i) together cover the whole of Scotland, and~~
    - ~~(ii) do not coincide or overlap.~~
- (3) ~~A care board that is—~~
- ~~(a) established in fulfilment of the duty under subsection (2) is a local care board,~~

- ~~(b) not established in fulfilment of that duty is a special care board.~~
- ~~(4) Regulations establishing a care board must—~~
  - ~~(a) in all cases—~~
    - ~~(i) specify the name by which the board is to be known;~~
    - ~~(ii) state whether it is a local or special care board;~~
    - ~~(iii) specify the minimum and maximum number of ordinary members of the board;~~
  - ~~(b) in the case of a local care board, identify the geographical area for which the board is responsible (which may be done by reference to another document).~~
- ~~(5) Further provision in connection with care boards is made by—~~
  - ~~(a) schedule 1, which makes provision about their constitution and operation;~~
  - ~~(b) schedule 2, which inserts references to them into other enactments which (amongst other things) impose duties on public bodies.~~

## **5 Financial assistance for care boards**

- ~~(1) The Scottish Ministers may provide any financial assistance to care boards that they consider appropriate.~~
- ~~(2) For the purposes of subsection (1), “financial assistance” includes grants, loans, guarantees and indemnities.~~
- ~~(3) The Scottish Ministers may attach conditions (including conditions as to repayment and the payment of interest) in respect of any financial assistance provided under this section.~~

## **CHAPTER 2**

### STRATEGIC PLANNING

#### *The Scottish Government*

## **6 Strategic planning by the Scottish Ministers**

- ~~(1) Subsection (2) applies if, by virtue of regulations under section 27, 28, or 29—~~
  - ~~(a) the Scottish Ministers have the function of providing a service, or~~
  - ~~(b) the function of their providing a service is designated as a National Care Service function.~~
- ~~(2) The Scottish Ministers must—~~
  - ~~(a) have a strategic plan, and~~
  - ~~(b) make their latest plan publicly available.~~
- ~~(3) The Scottish Ministers’ strategic plan is a document setting out, for the period of the plan, their—~~
  - ~~(a) arrangements for providing the service referred to in subsection (1);~~
  - ~~(b) vision for the service;~~

- ~~(c) objectives in relation to the service;~~
- ~~(d) budget projections in relation to the service;~~
- ~~(e) ethical commissioning strategy in relation to the service.~~
- ~~(4) The Scottish Ministers' strategic plan may include any other information they consider appropriate.~~
- ~~(5) Before making a strategic plan the Scottish Ministers must consult publicly on a draft of the plan.~~
- ~~(6) The Scottish Ministers—~~
  - ~~(a) may make a new strategic plan at any time (having complied with subsection (5));~~
  - ~~(b) must ensure that there is no gap between the period of one plan ending and that of its successor beginning.~~
- ~~(7) The period of a strategic plan—~~
  - ~~(a) must not exceed 3 years;~~
  - ~~(b) begins on the date that the plan states it begins;~~
  - ~~(c) ends on the earlier of—~~
    - ~~(i) the date that the plan states it ends, or~~
    - ~~(ii) the date that the period of the plan's successor begins.~~

#### *Care boards*

### **7 Strategic planning by care boards**

- ~~(1) A care board must—~~
  - ~~(a) have a strategic plan, and~~
  - ~~(b) make its latest plan publicly available.~~
- ~~(2) A care board's strategic plan is a document setting out, for the period of the plan (as defined in section 9(2)), the board's—~~
  - ~~(a) vision;~~
  - ~~(b) objectives;~~
  - ~~(c) structure;~~
  - ~~(d) budget projections;~~
  - ~~(e) arrangements for providing services in exercise of the functions conferred on the board by virtue of regulations under section 27, 28, or 29;~~
  - ~~(f) ethical commissioning strategy in relation to those services.~~
- ~~(3) A care board's strategic plan may include any other information the board considers appropriate.~~

## **8 ~~Care boards' planning process~~**

- ~~(1) Before making a strategic plan, a care board must—
  - ~~(a) consult in accordance with subsection (3), and~~
  - ~~(b) then have a draft of the plan approved by the Scottish Ministers.~~~~
- ~~(2) The Scottish Ministers may decline to approve a care board's draft plan until any changes they consider appropriate have been made.~~
- ~~(3) A care board must consult on a strategic plan in the following way—
  - ~~(a) the board must seek views on a draft of the plan from—
    - ~~(i) its community planning partners, and~~
    - ~~(ii) in the case of a local care board, any other local care board whose area of responsibility borders its own;~~~~
  - ~~(b) then, having taken their views into account, the board must seek views on a draft of the plan from—
    - ~~(i) in the case of a local care board, the residents of its area of responsibility;~~
    - ~~(ii) in the case of a special care board, the public in Scotland.~~~~~~
- ~~(4) Nothing in this section precludes a care board from seeking views on a proposal for a strategic plan from any person at any time.~~
- ~~(5) In subsection (3)(a), the reference to a care board's community planning partners is to any person who is in a community planning partnership with the board for the purposes of Part 2 of the Community Empowerment (Scotland) Act 2015.~~

## **9 ~~Frequency of planning by care boards~~**

- ~~(1) A care board—
  - ~~(a) may make a new strategic plan at any time (having complied with section 8(1));~~
  - ~~(b) must seek to ensure that there is no gap between the period of one plan ending and that of its successor beginning.~~~~
- ~~(2) The period of a care board's strategic plan—
  - ~~(a) must not exceed 3 years;~~
  - ~~(b) begins on the date that the plan states it begins;~~
  - ~~(c) ends on the earlier of—
    - ~~(i) the date that the plan states it ends, or~~
    - ~~(ii) the date that the period of the plan's successor begins.~~~~~~
- ~~(3) A newly established care board must seek to make its strategic plan within 12 months of its establishment.~~

*Interpretation*

**10 ~~Meaning of ethical commissioning strategy~~**

~~References in this Chapter to a person's ethical commissioning strategy in relation to a service is to the person's strategy for ensuring that the person's arrangements for providing the service best reflect the National Care Service principles.~~

**CHAPTER 3**

INFORMATION AND SUPPORT

*[Charter sections moved to Chapter 1]*

*[Advocacy and complaints sections moved to Chapter 1C]*

**CHAPTER 1A**

NATIONAL CARE SERVICE LOCAL BOARDS

**12B Creation of local boards and removal of other integration models**

Schedule (*National Care Service local boards: creation and removal of other integration models*) contains modifications to other enactments in connection with National Care Service local boards, in particular—

- (a) Part 1 modifies the Public Bodies (Joint Working) (Scotland) Act 2014 to—
  - (i) rename integration joint boards as National Care Service local boards, and
  - (ii) remove alternative integration models under that Act,
- (b) Part 2 modifies other enactments in consequence of the changes made by Part 1.

**12C Further reforms in connection with the functions of local boards**

Schedule (*National Care Service local boards: further reforms*) contains modifications to other enactments in connection with the functions of National Care Service local boards.

**CHAPTER 1B**

THE NATIONAL CARE SERVICE BOARD

*Establishment and general operating framework*

**12D Establishment of the National Care Service Board**

- (1) The National Care Service Board (in Gaelic, Bòrd na Seirbheis Cùraim Nàiseanta) is established.
- (2) Schedule (*National Care Service Board: constitution and general operation*) makes provision about the Board's constitution and general operation.



- (3) Schedule (National Care Service Board: application of public authorities legislation) amends other enactments so that their provisions apply to the Board.

#### **12E The Board’s general purpose**

The general purpose for which the National Care Service Board is to exercise its functions is to oversee the National Care Service local boards and the provision of services by the National Care Service so as to secure continuous improvement in the wellbeing of the people of Scotland in the way that seems to the Board most consistent with—

- (a) the National Care Service principles, and
- (b) the National Care Service strategy.

#### **12F Duty to comply with Ministerial directions**

- (1) The National Care Service Board must comply with any direction issued to it by the Scottish Ministers.
- (2) A direction under subsection (1)—
  - (a) may be general or specific,
  - (b) may modify or revoke an earlier direction under that subsection.
- (3) The Scottish Ministers must publish—
  - (a) any direction it issues to the Board under subsection (1), and
  - (b) a statement of their reasons for issuing it.

#### **12G Duty to have regard to Ministerial guidance**

- (1) The National Care Service Board must have regard to any guidance issued to it by the Scottish Ministers.
- (2) Guidance under subsection (1)—
  - (a) may be general or specific,
  - (b) may modify or revoke earlier guidance under that subsection.
- (3) The Scottish Ministers must publish any guidance it issues to the Board.

#### **12H Financing the Board**

- (1) The Scottish Ministers may provide such financial assistance to the National Care Service Board as they consider appropriate.
- (2) For the purposes of subsection (1), “financial assistance”—
  - (a) includes grants, guarantees and indemnities, but
  - (b) does not include loans.
- (3) The Scottish Ministers may attach conditions in respect of any financial assistance provided.

Corporate plan

**12I Corporate plan**

- (1) The National Care Service Board must—
  - (a) have a corporate plan, and
  - (b) make its latest corporate plan publicly available.
- (2) A corporate plan is a document setting out—
  - (a) how the Board intends to fulfil its general purpose (see section *The Board's general purpose*),
  - (b) how the Board intends to meaningfully involve in its decision making—
    - (i) individuals to whom the National Care Service provides or has provided services,
    - (ii) individuals who are, or have been, employed or otherwise professionally engaged in the provision of services by the National Care Service in roles that principally involve direct contact with the individuals to whom the services are provided, and
    - (iii) individuals who are, or have been, carers.
- (3) For the purposes of subsection (2)(b)(iii), a carer is an individual—
  - (a) who provides care to another individual to whom a service is being provided by the National Care Service, and
  - (b) who, as a result, may be treated for any purpose as a carer within the meaning of the Carers (Scotland) Act 2016.

**12J Making a corporate plan**

- (1) The National Care Service Board (subject to subsection (3))—
  - (a) may make a new corporate plan at any time, and
  - (b) must consider making a new corporate plan as soon as practicable after—
    - (i) a new version of the National Care Service strategy is made publicly available in accordance with section (*National Care Service strategy*)(1)(b),  
or
    - (ii) the Board's functions are modified.
- (2) In preparing a corporate plan, the Board must consult—
  - (a) local authorities,
  - (b) health boards,
  - (c) National Care Service local boards,

- (d) any other person it considers appropriate, having particular regard to the importance of eliciting the views of individuals described by the sub-paragraphs of section (Corporate plan)(2)(b).
- (3) The Board may not make a corporate plan unless the Scottish Ministers have approved it in draft.
- (4) As soon as practicable after a corporate plan is made—
  - (a) the Scottish Ministers must lay a copy of it before the Scottish Parliament, and
  - (b) the Board must send a copy of it to each local authority and health board.

#### *Improving care*

### **12K Responsibility for monitoring and improvement**

- (1) The National Care Service Board is to—
  - (a) monitor the services provided by the National Care Service, and
  - (b) where it identifies a need for a service to improve, take action to improve it.
- (2) In deciding whether a service needs to improve, the Board is to have particular regard to whether it is being provided in a way that is consistent with—
  - (a) the National Care Service strategy, and
  - (b) the strategic plan of the National Care Service local board that has responsibility for the service.
- (3) The Board is to carry out its function under this section in accordance with its latest support and improvement framework.

### **12L Support and improvement framework**

- (1) For the purposes of section (Responsibility for monitoring and improvement), a support and improvement framework is a document, prepared by the Board, that describes how it will carry out its function under that section.
- (2) In particular, a support and improvement framework must describe, on a graduated scale, the actions the Board may take when it identifies a need for improvement.
- (3) The Board may prepare a new support and improvement framework at any time.
- (4) In preparing a support and improvement framework, the Board must have regard to the importance of its work complementing, rather than duplicating, that of other public authorities including—
  - (a) Healthcare Improvement Scotland,
  - (b) Public Health Scotland,
  - (c) Social Care and Social Work Improvement Scotland.
- (5) The Board must make its latest support and improvement framework publicly available.

*Commissioning*

**12M** **Procuring goods and services for others**

- (1) The National Care Service Board may enter into an arrangement with a person mentioned in subsection (2) under which the Board provides, or secures the provision of, goods or services for the person that are to be used (directly or indirectly) in connection with health care or social care.
- (2) The persons referred to in subsection (1) are—
  - (a) the Scottish Ministers,
  - (b) a National Care Service local board,
  - (c) a local authority,
  - (d) a health board,
  - (e) a special health board.
- (3) The Board may authorise any person to perform its function under subsection (1), but only in respect of goods or services of a kind it specifies when authorising the person to perform the function.
- (4) The giving of authority under subsection (3)—
  - (a) does not affect the Board’s ability to perform the function,
  - (b) does not entitle the authorised person to enter into agreements on the Board’s behalf,
  - (c) does confer on the authorised person any power—
    - (i) that is necessary for the purpose of performing the function to the extent that the person is authorised to do so, and
    - (ii) that the person otherwise would not have or would not be entitled to exercise for that purpose.
- (5) In this section, “health care” and “social care” have the meanings given in section 68(1) of the Public Bodies (Joint Working) (Scotland) Act 2014.

*Further powers to support care delivery*

**23** **Research**

- (1) The ~~Scottish Ministers and care boards~~ National Care Service Board may do any of the following in relation to research relevant to the services that the National Care Service provides—
  - (a) conduct it,
  - (b) assist others in conducting it,
  - (c) give financial assistance in relation to it.
- (2) For the purposes of subsection (1)(c), “financial assistance” means grants and loans.

- (3) ~~A person giving financial assistance under this section may attach conditions to it~~ The Board may attach conditions to any financial assistance it gives under this section (including conditions as to repayment and the payment of interest).

## 24 Training

- (1) The ~~Scottish Ministers and care boards~~ National Care Service Board may—
- (a) provide training ~~courses~~ for individuals to equip them with knowledge and skills relevant to ~~providing services on behalf of~~ the provision of services by the National Care Service,
  - (b) give a person a grant towards expenses incurred by the person in providing training for the purpose mentioned in paragraph (a),
  - (c) give to an individual undertaking training for the purpose mentioned in paragraph (a) (whether or not by way of a course provided under that paragraph) a grant towards any or all of the following—
    - (i) fees for the training,
    - (ii) expenses incurred in connection with the training,
    - (iii) living costs that arise during the training period.
- (2) ~~A person giving a grant under this section may attach conditions to it~~ The Board may attach conditions to any grant it gives under this section (including conditions as to repayment and the payment of interest).

## 25 Support for other activities

- (1) The ~~Scottish Ministers and care boards~~ National Care Service Board may give financial assistance to any person who is engaged in an activity connected to the services provided ~~to individuals~~ by the National Care Service.
- (2) Financial assistance may be given under subsection (1) in order that the recipient of it can, in turn, give financial assistance to another person engaged in an activity connected to the services provided ~~to individuals~~ by the National Care Service.
- ~~(3) A person giving financial assistance under subsection (1) may attach conditions to it.~~
- (3A) The Board may attach conditions to any financial assistance it gives under subsection (1).
- (4) Where financial assistance is given under subsection (1) for the purpose mentioned in subsection (2), the conditions attached to it may include requirements about the conditions that the recipient must attach when the recipient uses the financial assistance to give assistance to another person.
- (5) References in this section to conditions include conditions as to repayment and the payment of interest.
- (6) In this section, “financial assistance” means grants and loans.

*Transfer of National Care Service local boards' functions*

**18 Transfer of ~~care~~local board's functions in an emergency**

- (1) The ~~Scottish Ministers~~ National Care Service Board (“national board”) may direct that a function ~~of a care board~~ delegated to a National Care Service local board (“local board”) is to be performed by another person if the ~~Ministers are~~ national board is of the opinion that—
  - (a) an emergency exists, and
  - (b) having a person other than the local board perform the function is necessary in order to secure the function's effective performance.
- (2) A direction under subsection (1) is to specify the person who is to perform the function (which may be the ~~Scottish Ministers~~ national board).
- (3) A person directed under subsection (1) to perform a function must comply with the direction.
- (4) The ~~Scottish Ministers~~ national board—
  - (a) may revoke a direction under subsection (1) at any time, and
  - (b) must do so as soon as practicable after ~~they form~~ it forms the opinion—
    - (i) that the emergency in connection with which the direction was issued no longer exists, or
    - (ii) that it never existed.
- (5) A direction under subsection (1) is revoked when the ~~Scottish Ministers have~~ national board has given notice to that effect to—
  - (a) the ~~care~~ local board whose function is concerned, and
  - (b) if the person charged with performing the function by the direction is not the ~~Scottish Ministers~~ national board, that person too.

**19 Transfer of ~~care~~local board's functions due to service failure**

- (1) The ~~Scottish Ministers may~~ National Care Service (“national board”) may, in pursuance of its duty under section (*Responsibility for monitoring and improvement*), direct that a function ~~of a care board~~ delegated to a National Care Service local board (“local board”) is to be performed by another person if the ~~Ministers are~~ national board is of the opinion that the local board has failed, is failing or is likely to fail—
  - (a) to perform the function, or
  - (b) to perform it to a standard which the ~~Ministers regard~~ national board regards as acceptable.
- (2) A direction under subsection (1) is to specify the person who is to perform the function, ~~but may only specify—~~
  - ~~(a) another care board, or~~
  - ~~(b) the Scottish Ministers; which may only be another local board.~~
- (3) A person directed under subsection (1) to perform a function must comply with the direction.

- (4) Where a ~~care board's function~~ a function delegated to a local board is performed by another person in accordance with a direction under subsection (1)—
  - (a) the local board is liable to the person for any expenses that the person reasonably incurs in performing the function, unless the direction states otherwise,
  - (b) anything done, or omitted, by the person in performing the function is to be regarded as having been done or omitted by the board,
  - (c) a third party who deals with the person in good faith and for value is entitled to assume that anything the person purports to do within the powers conferred by the direction is properly done within those powers.
- (5) For the purposes of subsection (4)(a), a person's expenses in performing a function includes the cost of remunerating the person's staff for periods they spent performing the function.
- (6) The ~~Scottish Ministers~~ national board may revoke a direction under subsection (1) at any time.
- (7) A direction under subsection (1) is revoked when the ~~Scottish Ministers have~~ national board has given notice to that effect to—
  - (a) the ~~care~~ local board whose function is concerned, and
  - ~~(b) if the person charged with performing the function by the direction is not the Scottish Ministers, that person too.~~
  - (c) the person charged with performing the function by the direction.

## CHAPTER 1C

### FUNCTIONS OF THE SCOTTISH MINISTERS IN RELATION TO CARE

#### Personnel

#### 26A National Chief Social Work Adviser and the National Social Work Agency

- (1) The Scottish Ministers are to—
  - (a) designate a member of their staff as the National Chief Social Work Adviser to—
    - (i) advise them on policy in relation to social work and the protection of individuals at particular risk of harm, and
    - (ii) prepare an annual report for the National Care Service Board on the state of social work services and the social work workforce.
  - (b) organise other members of their staff into an agency named the National Social Work Agency to support the National Chief Social Work Adviser.
- (2) The member of staff designated as the National Chief Social Work Adviser must be registered as a social worker in a register that is a relevant register within the meaning of section 52(2) of the Regulation of Care (Scotland) Act 2001.

*Complaints*

**14 Complaints service**

- (1) The Scottish Ministers must provide a complaints service for—
  - (a) receiving complaints about the services that the National Care Service provides, and
  - (b) passing those complaints on to the appropriate person.
- (2) Nothing in subsection (1) precludes the complaints service from dealing with other kinds of complaint.
- (3) The appropriate person in relation to a complaint is the person who, in the opinion of the provider of the complaints service, is best placed to address the complaint.
- (4) The Scottish Ministers—
  - (a) must fulfil their duty under subsection (1) as soon as practicable, and
  - (b) may do so by having the complaints service assume responsibility for dealing with complaints about different services at different times.

*Regulation-making powers*

**26B Conferral of additional functions on the National Care Service Board**

- (1) The Scottish Ministers may by regulations confer functions on the National Care Service Board.
- (2) Before laying before the Scottish Parliament for approval a draft Scottish statutory instrument containing regulations under subsection (1), the Scottish Ministers must consult—
  - (a) the Board,
  - (b) local authorities,
  - (c) health boards.

**13 Independent advice, information and advocacy**

The Scottish Ministers may by regulations make provision about the provision of independent advice, information and advocacy services in connection with the services that the National Care Service provides.

**15 Dealing with complaints**

- (1) The Scottish Ministers may by regulations make provision about the handling of relevant complaints (including the remedies that are to be available).
- (2) A relevant complaint is a complaint about—
  - (a) a service provided by the National Care Service,
  - (b) any other social service as defined by section 46 of the Public Services Reform (Scotland) Act 2010.



- (3) Regulations under this section may in particular—
  - (a) impose requirements (for example to produce documentation on request),
  - (b) create sanctions (civil or criminal) for those who fail to comply with the regulations’ requirements.
- (4) The Scottish Ministers may only lay draft regulations to which subsection (5) applies before the Scottish Parliament for approval with the consent of the Scottish Parliamentary Corporate Body.
- (5) This subsection applies to draft regulations under this section that would—
  - (a) confer a function on a person listed in schedule 6 of the Public Services Reform (Scotland) Act 2010, or
  - (b) modify or remove one of those persons’ existing functions.

#### ~~CHAPTER 4~~

##### ~~SCOTTISH MINISTERS’ POWERS TO INTERVENE~~

###### ~~*Powers in relation to care boards*~~

#### ~~16 Directions to care boards~~

- ~~(1) A care board must comply with any direction issued to it by the Scottish Ministers.~~
- ~~(2) A direction under subsection (1)—~~
  - ~~(a) may be general or specific;~~
  - ~~(b) may modify or revoke an earlier direction under subsection (1).~~

#### ~~17 Removal of care board members~~

- ~~(1) The Scottish Ministers may by regulations remove the members of a care board if the Ministers are satisfied that the board has failed to carry out any of its functions.~~
- ~~(2) The Scottish Ministers may only be satisfied that a care board has failed to carry out a function if an inquiry has been held to determine the facts relating to the alleged failure.~~
- ~~(3) An inquiry for the purpose of subsection (2) is to be held in whatever manner the Scottish Ministers consider appropriate.~~
- ~~(4) For the avoidance of doubt, a reference to a care board’s functions includes its function of complying with any direction issued to it under section 16.~~

#### ~~[Transfer of functions sections moved to Chapter 1B]~~

##### ~~*Powers to intervene with contractors*~~

#### ~~20 Emergency intervention order~~

- ~~(1) The court may, on an application by the Scottish Ministers, make an emergency intervention order.~~
- ~~(2) An emergency intervention order is an order designed to ensure that goods or services that are to be provided by a person (“the provider”) to, or on behalf of, the National~~

~~Care Service under an agreement are, so far as possible, provided without undue delay and to an appropriate standard.~~

- (3) ~~An emergency intervention order may—~~
- ~~(a) authorise a person nominated by the Scottish Ministers to—~~
    - ~~(i) enter and occupy premises identified in the order;~~
    - ~~(ii) direct and control the provider's operations so far as they relate to the affected supply;~~
    - ~~(iii) do anything that the person considers necessary to ensure that the affected supply is provided without undue delay and to an appropriate standard;~~
  - ~~(b) require the provider to comply with any direction in relation to the affected supply given by the person nominated by the Scottish Ministers;~~
  - ~~(c) confer any other powers, or impose any other duties or prohibitions, that the court considers appropriate (for example, a prohibition on the provider disposing of assets).~~
- (4) ~~The court may make an emergency intervention order only if it is satisfied that it is reasonable for the Scottish Ministers to hold the opinion described by section 21(1) in relation to the affected supply.~~
- (5) ~~The court may make an emergency intervention order in the absence of the provider.~~
- (6) ~~If it makes an emergency intervention order, the court must specify in the order the period for which it has effect, which must not exceed 12 months (but see section 22(2)).~~
- (7) ~~In this section—~~
- ~~“the affected supply” means the goods or services that the emergency intervention order in question is designed to ensure are provided without undue delay and to an appropriate standard;~~
  - ~~“court” means the Court of Session or the sheriff.~~

## **21 Application for emergency intervention order**

- (1) ~~The Scottish Ministers may apply for an emergency intervention order only if it is their opinion that—~~
- ~~(a) there is a failure, or an imminent risk of failure, in the provision of goods or services that are to be provided to, or on behalf of, the National Care Service under an agreement;~~
  - ~~(b) that failure has caused, or is likely to cause, significant harm to the material wellbeing or safety of persons to whom the National Care Service provides services;~~
  - ~~(c) the agreement under which the goods or services are to be provided offers no remedy that could effectively mitigate that harm.~~
- (2) ~~In subsection (1), reference to a failure in the provision of goods or services is to—~~
- ~~(a) their not being provided in accordance with the terms of the agreement under which they are to be provided, or~~

- (b) ~~their provision in accordance with the terms of that agreement no longer being adequate to fulfil the purpose for which the National Care Service entered into the agreement to have the goods or services provided.~~

**22** ~~Variation and revocation of emergency intervention order~~

- (1) ~~The court may on the application of the Scottish Ministers or the provider—~~
  - (a) ~~vary the terms of an emergency intervention order,~~
  - (b) ~~revoke an emergency intervention order.~~
- (2) ~~The court may vary an emergency intervention order to extend the period for which it has effect, but—~~
  - (a) ~~may only do so once, and~~
  - (b) ~~may not extend the period originally specified by more than 6 months.~~
- (3) ~~In this section, “court” and “provider” are to be construed in accordance with section 20.~~

**CHAPTER 5**

~~FUNCTIONS CONNECTED TO THE PROVISION OF CARE~~

~~*[Research, training and support sections moved to Chapter 1B]*~~

**26** ~~Compulsory purchase~~

- (1) ~~The Scottish Ministers or a care board may compulsorily acquire land that they require for the purpose of exercising a relevant function.~~
- (2) ~~A compulsory acquisition by a care board under subsection (1) must be authorised by the Scottish Ministers.~~
- (3) ~~Land may not be compulsorily acquired by virtue of subsection (1) if it is held or used by a Minister of the Crown or a department of the Government of the United Kingdom.~~
- (4) ~~In this section—~~
  - (a) ~~a relevant function—~~
    - (i) ~~in the case of a care board, is any of its functions,~~
    - (ii) ~~in the case of the Scottish Ministers, is any function conferred on them by virtue of this Part,~~
  - (b) ~~references to acquiring land includes acquiring—~~
    - (i) ~~any right or interest in or over land,~~
    - (ii) ~~a servitude or other right in or over land by the creation of a new right.~~

## **CHAPTER 6**

### **ALLOCATION OF CARE FUNCTIONS ETC.**

#### *Powers to transfer functions*

#### **27 ~~Power to transfer functions from local authorities~~**

~~For the purpose of fulfilling their duty under section 2, the Scottish Ministers may by regulations, wholly or partly, transfer to themselves or a care board a function conferred on a local authority by an enactment mentioned in schedule 3.~~

#### **28 ~~Power to bring aspects of healthcare into the National Care Service~~**

~~For the purpose of fulfilling their duty under section 2, the Scottish Ministers may by regulations—~~

- ~~(a) designate as a National Care Service function the function of their providing, or securing the provision of, a particular service under the National Health Service (Scotland) Act 1978;~~
- ~~(b) wholly or partly transfer to themselves, or a care board, a function conferred on a health board or a special health board.~~

#### **29 ~~Power to re-organise the National Care Service~~**

~~For the purpose of fulfilling their duty under section 2, the Scottish Ministers may by regulations wholly or partly transfer to—~~

- ~~(a) themselves a function conferred on a care board;~~
- ~~(b) a care board a function conferred on themselves by virtue of section 27, 28 or this section;~~
- ~~(c) a local care board a function conferred on a special care board;~~
- ~~(d) a special care board a function conferred on a local care board.~~

#### *Duties in relation to transferring functions*

#### **30 ~~Consultation before bringing children's and justice services into the National Care Service~~**

- ~~(1) This section applies in relation to regulations under section 27 that would transfer the function of providing—
  - ~~(a) a children's service, or~~
  - ~~(b) a justice service.~~~~
- ~~(2) Before making regulations to which this section applies, the Scottish Ministers must consult publicly about the function transfer that the proposed regulations would effect.~~

- (3) ~~When laying a draft Scottish statutory instrument containing regulations to which this section applies before the Scottish Parliament for approval by resolution, the Scottish Ministers must also lay before the Parliament a summary of—~~
- ~~(a) the process by which they consulted in relation to the function transfer that would be effected by the regulations contained in the draft instrument, and~~
  - ~~(b) the responses they received to that consultation.~~
- (4) ~~In this section, “a children’s service” means a service that is provided to, or in relation to (either or both)—~~
- ~~(a) persons under 18 years of age,~~
  - ~~(b) persons 18 years of age or over on account of a local authority having provided a service to, or in relation to, them when they were under 18 years of age.~~
- (5) ~~In this section, the reference to “a justice service” is to be construed as follows—~~
- ~~(a) a justice service is a service that is provided only to, or in relation to, persons who are or have been—~~
    - ~~(i) in police custody having been arrested in respect of an offence;~~
    - ~~(ii) officially accused of committing an offence;~~
    - ~~(iii) the accused in criminal proceedings;~~
    - ~~(iv) found guilty in criminal proceedings;~~
  - ~~(b) despite paragraph (a), no service provided in exercise of a function conferred by virtue of the Mental Health (Care and Treatment) (Scotland) Act 2003 is a justice service.~~
- (6) ~~In subsection (5), “officially accused” and “police custody” have the meanings given in (respectively) sections 63 and 64 of the Criminal Justice (Scotland) Act 2016.~~

*Further provision about function transfers*

**31 Transfers of staff**

- (1) ~~In connection with the transfer of a function from one person (“the original function holder”) to another (“the new function holder”), the Scottish Ministers may by regulations transfer individuals from the employment of the original function holder into the employment of the new function holder.~~
- (2) ~~But regulations under subsection (1) may not transfer a person from the employment of a health board or a special health board into the employment of another person.~~
- (3) ~~Regulations under subsection (1) may identify the staff to be transferred by name or description.~~
- (4) ~~A transfer effected by virtue of subsection (1) is a relevant transfer for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246).~~
- (5) ~~In this section, a reference to the transfer of a function is to a transfer by virtue of a section in this Chapter.~~

### **32 ~~Transfers of property and liabilities etc.~~**

- (1) ~~In connection with the transfer of a function from one person (“the original function holder”) to another (“the new function holder”), the Scottish Ministers may by regulations—~~
- ~~(a) transfer to, and vest in, the new function holder any of the property (including rights) and liabilities of the original function holder,~~
  - ~~(b) provide that anything done by, or on behalf of, the original function holder is to be treated as having been done by, or on behalf of, the new function holder,~~
  - ~~(c) provide that any reference to the original function holder in a contract, deed or other document giving rise to a legal obligation, is to be read as a reference to the new function holder,~~
  - ~~(d) provide that any legal proceedings raised by, or against, the original function holder are to be continued by, or against the new function holder.~~
- (2) ~~In this section, the reference to the transfer of a function is to a transfer by virtue of a section in this Chapter.~~

### **33 ~~Interpretation of expressions about functional transfers~~**

- (1) ~~In this Chapter, a reference to—~~
- ~~(a) transferring a function wholly is to transferring it so that it ceases to be exercisable for any purpose by the person on whom it was conferred before the transfer,~~
  - ~~(b) transferring a function partly is to transferring it so that for some purposes it is exercisable by the Scottish Ministers or a care board while for others it remains exercisable by the person on whom it was conferred before the transfer,~~
  - ~~(c) a function being conferred includes its being conferrable (for example by a court order),~~
  - ~~(d) transferring a function from person A to person B includes making a function that is conferrable on person A conferrable on person B.~~
- (2) ~~In subsection (1)(a) and (b), a reference to a function’s being exercisable for a purpose includes its being conferrable for a purpose.~~

## **CHAPTER 7**

### **FINAL PROVISIONS FOR PART 1**

### **34 ~~Consequential modifications~~**

~~Schedule 4 makes modifications in consequence of this Part.~~

### **35 ~~Interpretation of Part 1~~**

- (1) This section makes provision for the purposes of interpreting this Part.
- (2) ~~The National Care Service is comprised by—~~
- ~~(a) care boards, and~~

- ~~(b) the Scottish Ministers insofar as they are exercising a function that is—
  - ~~(i) conferred on them by virtue of this Part, or~~
  - ~~(ii) designated as a National Care Service function by virtue of regulations under section 28.~~~~
- ~~(3) References (however expressed) to a service provided by the National Care Service are to a service that a person comprising the National Care Service provides in exercise of a function that is—
  - ~~(a) conferred by virtue of regulations under section 27, 28, or 29, or~~
  - ~~(b) designated as a National Care Service function by virtue of regulations under section 28.~~~~
- (3A) A reference (however expressed) to a service’s being provided by the National Care Service is to its being provided in exercise of a function delegated in pursuance of an integration scheme under the Public Bodies (Joint Working) (Scotland) Act 2014.
- (4) References (however expressed) to providing a service include securing its provision.

## PART 2

### HEALTH AND SOCIAL CARE INFORMATION

#### 36 Care records

- (1) The Scottish Ministers may by regulations provide for a scheme that allows information to be shared in order that public health and social care services can be provided efficiently and effectively ~~by and on behalf of—
  - ~~(a) the National Care Service,~~
  - ~~(b) the National Health Service.~~~~
- (2) Regulations under subsection (1) may in particular—
  - (a) require one person to supply information to another person,
  - (b) create sanctions (civil or criminal) for those who fail to comply with the regulations’ requirements.
- ~~(3) In this section—
  - ~~“National Care Service” means—
    - ~~(a) a care board,~~
    - ~~(b) the Scottish Ministers exercising a function conferred on them by virtue of—
      - ~~(i) Part 1,~~
      - ~~(ii) section 58 of the Regulation of Care (Scotland) Act 2001,~~~~~~
  - ~~“National Health Service” means—
    - ~~(a) a health board,~~
    - ~~(b) a special health board,~~~~~~

- ~~(e) the Common Services Agency for the Scottish Health Service,~~
  - ~~(d) Healthcare Improvement Scotland,~~
  - ~~(e) the Scottish Ministers exercising a function conferred on them by virtue of the National Health Service (Scotland) Act 1978.~~
- (3) For the purposes of this section, a public health and social care service is a service provided in pursuance of—
- (a) a function conferred by virtue of an enactment listed in the schedule of the Public Bodies (Joint Working) (Scotland) Act 2014, or
  - (b) a function that is exercisable by—
    - (i) a health board, or
    - (ii) a special health board.
- (4) For the avoidance of doubt, regulations under subsection (1) may provide for information to be shared in order for it to be used, not only directly in the performance of the functions mentioned in subsection (3), but also in the performance of any function that supports the efficient and effective provision of public health and social care services (for example, the Scottish Ministers’ functions under section 58 of the Regulation of Care (Scotland) Act 2001).

### 37 Information standard

- (1) An information standard is a document, produced by the Scottish Ministers, setting out how certain information is to be processed.
- (1A) An information standard may set out how information is to be processed by reference to another document (including a document which is not in existence when the standard is produced).
- (2) The Scottish Ministers must make any information standard they produce publicly available.
- (3) A person to whom subsection (4) applies must—
- (a) comply with any information standard, and
  - (b) include in any agreement for the provision of a service on the person’s behalf a requirement that the other party comply with any information standard.
- (4) This subsection applies to—
- ~~(a) a care board,~~
  - (aa) the National Care Service Board,
  - (ab) a National Care Service local board,
  - (ac) a local authority, but only insofar as it is exercising a function conferred on it by virtue of an enactment listed in the schedule of the Public Bodies (Joint Working) (Scotland) Act 2014,
  - (b) a health board,
  - (c) a special health board,



- (d) the Common Services Agency for the Scottish Health Service,
- (e) Healthcare Improvement Scotland,
- (f) the Scottish Ministers, but only insofar as they are exercising a function conferred on them by virtue of—
  - (i) ~~Part 1~~,
  - (ii) section 58 of the Regulation of Care (Scotland) Act 2001,
  - (iii) the National Health Service (Scotland) Act 1978.

(4A) The Scottish Ministers may by regulations modify subsection (4), but may do so only for the purpose of promoting the efficient and effective provision of a public health and social care service as defined by section 36(3).

- (5) The references to an information standard in subsections (2) and (3) do not include an information standard that the Scottish Ministers have withdrawn.
- (6) In this section, “processed” includes doing any of the things referred to in paragraphs (a) to (f) of section 3(4) of the Data Protection Act 2018.

### PART 3

#### REFORMS CONNECTED TO DELIVERY AND REGULATION OF CARE

##### *Carers*

### **38 Rights to breaks for carers**

- (1) The Carers (Scotland) Act 2016 is modified by subsections (2) to (10).
- (2) After section 8(2) (adult carers: identification of outcomes and needs for support) insert—
  - “(1) A responsible local authority must identify, as a personal outcome that is relevant to an adult carer, the outcome that the adult carer is able to take sufficient breaks from providing care for the cared-for person.
  - (2) Where an adult carer is not able to take sufficient breaks from providing care for the cared-for person, a responsible local authority must identify the need for support to enable the adult carer to take sufficient breaks from providing that care.”
- (3) In section 9(1) (content of adult carer support plan)—
  - (a) after paragraph (h) insert—
    - “(ha) if the adult carer’s identified needs include the need for support to enable the adult carer to take sufficient breaks from providing care by virtue of section 8(4), information about the support which the responsible local authority provides or intends to provide to the adult carer to meet that need,”
  - (b) in paragraph (j), after “criteria” insert “(except in the case of an identified need as mentioned in paragraph (ha))”,
  - (c) paragraph (k) is repealed.

- (4) After section 14(2) (young carers: identification of outcomes and needs for support) insert—
- “(3) A responsible authority must identify, as a personal outcome that is relevant to a young carer, the outcome that the young carer is able to take sufficient breaks from providing care for the cared-for person.
- (4) Where a young carer is not able to take sufficient breaks from providing care for the cared-for person, a responsible authority must identify the need for support to enable the young carer to take sufficient breaks from providing that care.”.
- (5) In section 15(1) (content of young carer statement)—
- (a) after paragraph (i) insert—
- “(ia) if the young carer’s identified needs include the need for support to enable the young carer to take sufficient breaks from providing care by virtue of section 14(4), information about the support which the responsible local authority provides or intends to provide to the young carer to meet that need,”.
- (b) in paragraph (k), after “criteria” insert “(except in the case of an identified need as mentioned in paragraph (ia))”,
- (c) paragraph (l) is repealed.
- (6) In section 21 (duty to set local eligibility criteria)—
- (a) in subsection (2), for “identified” substitute “relevant”,
- (b) after subsection (4) insert—
- “(5) In subsection (2), “relevant needs” means identified needs other than any need for support to enable carers to take sufficient breaks from providing care that is identified by virtue of section 8(4) or 14(4).”.
- (7) In section 23 (national eligibility criteria)—
- (a) in subsection (2), for “identified” substitute “relevant”,
- (b) in subsection (3)(c), for “24(3)” substitute “24(2) and (4)”,
- (c) after subsection (4) insert—
- “(5) In subsection (2), “relevant needs” means identified needs other than any need for support to enable carers to take sufficient breaks from providing care that is identified by virtue of section 8(4) or 14(4).”.
- (8) In section 24 (duty to provide support)—
- (a) in subsection (1)(a), for the words from “section” to “caring” substitute “this section in order to enable the carer to take a break from providing care for the cared-for person”,
- (b) in subsection (2), for “eligible needs” substitute “relevant needs that meet the local eligibility criteria”,
- (c) subsection (3) is repealed,

- (d) in subsection (4)—
    - (i) in paragraph (a), for “the carer’s eligible needs” substitute “any relevant needs of the carer that meet the local eligibility criteria”,
    - (ii) in paragraph (b), for “the carer’s other identified needs” substitute “any relevant needs of the carer that do not meet the local eligibility criteria”,
  - (e) after subsection (4) insert—

“(4A) The responsible local authority must also provide support to the carer to meet any need for support to enable the carer to take sufficient breaks from providing care for the cared-for person that is identified by virtue of section 8(4) or 14(4).”
  - (f) in subsection (5)—
    - (i) in the opening words, for “Subsection (4)(a) applies” substitute “Subsections (4)(a) and (4A) apply”,
    - (ii) in paragraph (a), for “eligible needs” substitute “identified needs in question”,
    - (iii) in paragraph (b), for “eligible needs” substitute “identified needs in question”,
  - (g) in subsection (6), for the words from “the”, in the first place where it occurs, to the end substitute ““relevant needs”, in relation to a carer, means the carer’s identified needs other than any need for support to enable the carer to take sufficient breaks from providing care that is identified by virtue of section 8(4) or 14(4)”.
- (9) In section 25 (provision of support to carers: breaks from caring)—
- (a) subsection (1) is repealed,
  - (b) for subsection (2) substitute—

“(2) The Scottish Ministers may by regulations make further provision in connection with the support to be provided to a carer under section 24(4A).
  - (3) Regulations under subsection (2) may in particular make provision about—
    - (a) the meaning of any reference to sufficient breaks in this Act,
    - (b) standards or criteria in relation to the sufficiency of such breaks (including the nature, frequency or duration of breaks),
    - (c) forms of support that may enable a carer to take such breaks,
    - (d) where the support is the provision of care for the cared-for person, the role of the cared-for person in relation to how the care is provided.”
  - (c) in subsection (3), for “by virtue of subsection (1)” substitute “under section 24(4A)”,
  - (d) in subsection (4)—
    - (i) for “by virtue of subsection (1)” substitute “under section 24(4A)”,
    - (ii) for “caring” substitute “providing care”,
  - (e) in subsection (5), for “as a break from caring” substitute “to enable a carer to take a break from providing care for the cared-for person”.

- (10) In section 31 (duty to prepare local carer strategy)—
- (a) after subsection (2)(h) insert—
- “(ha) plans to promote a variety of providers of support to relevant carers and to promote the variety of support provided,”
- (b) after subsection (2) insert—
- “(2A) In subsection (2), references to support to relevant carers include references to support to enable carers to take a break from providing care for cared-for persons.”
- (11) The Social Care (Self-directed Support) (Scotland) Act 2013 is modified by subsection (12).
- (12) In section 7(1) (choice of options: adult carers and young carers), after “24(4)” insert “or (4A)”.
- (13) The Social Work (Scotland) Act 1968 is modified by subsection (14).
- (14) In section 87 (charges that may be made for services and accommodation)—
- (a) in subsection (1), after “24(4)” insert “or (4A)”,
- (b) in subsection (1A)(a), after “24(4)” insert “or (4A)”.

### **39 Enactments relating to carers: minor modifications**

- (1) The Carers (Scotland) Act 2016 is modified by subsection (2).
- (2) Sections 6(6) and 12(8) are repealed.
- (3) The Social Care (Self-directed Support) (Scotland) Act 2013 is modified by subsection (4).
- (4) In section 7(1), the words “an adult” in the first place where they occur are repealed.

#### *Care homes*

### **40 Visits to or by care home residents**

- (1) The Public Services Reform (Scotland) Act 2010 is modified as follows.
- (2) In section 78 (regulations: care services), after subsection (2) insert—
- “(2A) The Scottish Ministers must exercise the power under subsection (2) to require providers of care home services to comply with any direction (“visiting direction”) issued by the Ministers about either or both of—
- (a) visits to residents of accommodation provided by a care home service,
- (b) visits by residents of accommodation provided by a care home service.
- (2B) The Scottish Ministers—
- (a) must, before issuing a visiting direction, consult Public Health Scotland and any other person the Scottish Ministers consider appropriate,
- (b) may vary or revoke a visiting direction.”

*Procurement*

**41 Reserving right to participate in procurement by type of organisation**

- (1) The Public Contracts (Scotland) Regulations 2015 (S.S.I. 2015/446) are modified as follows.
- (2) After regulation 76 insert—

**“Reserved contracts for certain services**

**76A**—(1) Contracting authorities may reserve to qualifying organisations the right to participate in procedures for the award of reservable contracts.

(2) Where a contracting authority exercises the power of reservation conferred by paragraph (1), the call for competition must make reference to this regulation.

(3) The power of reservation conferred by paragraph (1) is without prejudice to the power conferred by regulation 21.

(4) A reservable contract is a contract that—

- (a) is to be awarded in accordance with this Section,
- (b) has a maximum duration of 5 years or less,
- (c) is for the provision of a service, or more than one service, to or on behalf of the National Care Service (as defined by section 35 of the National Care Service (Scotland) Act 2023), and
- (d) is exclusively for a service, or more than one service, covered by one of the following CPV codes: 75200000-8, 75231200-6, 75231240-8, 79611000-0, 79622000-0, 79624000-4, 79625000-1, a code in the range beginning with 85000000-9 and ending with 85323000-9, 98133100-5, 98133000-4, 98200000-5, 98500000-8 and a code in the range beginning with 98513000-2 and ending with 98514000-9.

(5) An organisation is a qualifying organisation if—

- (a) its objective is the pursuit of a public service mission linked to the delivery of services referred to in paragraph (4)(d),
- (b) profits are reinvested with a view to achieving the organisation’s objective, and any distribution of profits is based on participatory considerations,
- (c) the structures of management or ownership of the organisation are (or will be if and when it performs the contract in question)—
  - (i) based on employee ownership or participatory principles, or
  - (ii) such that they require the active participation of employees, users or stakeholders, and
- (d) the organisation has not been awarded, pursuant to this regulation, a contract for the services concerned by the contracting authority concerned within the past 3 years.

(6) The Scottish Ministers may by regulations change—

- (a) the CPV codes specified in paragraph (4)(d),
- (b) the definition of qualifying organisation.

(7) The power conferred by paragraph (6) may be exercised to make different provision for different purposes.”.

**41A Procurement strategies to be informed by NCS local boards’ strategic plans**

(1) The Procurement Reform (Scotland) Act 2014 is modified as follows.

(2) In section 15 (procurement strategy)—

(a) in subsection (5), after paragraph (c) insert—

“(ca)if the authority intends to carry out regulated procurements in connection with functions delegated to a National Care Service local board, include a statement of the authority’s general policy on how it intends to approach those procurements consistently with the board’s strategic plan.”,

(b) for subsection (7) substitute—

“(7) In this section—

“living wage”, in subsection (5)(b)(iii), means remuneration which is sufficient to ensure an acceptable standard of living,

“National Care Service local board” and “strategic plan”, in subsection (5)(ca), have the meanings given by section 68(1) of the Public Bodies (Joint Working) (Scotland) Act 2014.”.

**41B Notice of published procurement strategies, etc.**

(1) The Procurement Reform (Scotland) Act 2014 is modified as follows.

(2) In section 12(3) (contracts for health or social care services), for “and section 13(1)” substitute “, section 13(1) and section 19(4)”.

(3) In section 19 (publication etc.), after subsection (3) insert—

“(4) The Scottish Ministers may by regulations modify subsection (3) so as to require an authority to notify other persons (in addition to the Scottish Ministers) following the publication of a document that relates (to any extent) to the procurement of health or social care services.”.

*Regulation of social services*

**41C Delegation of functions under Part 1 of the Regulation of Care (Scotland) Act 2001**

(1) The Regulation of Care (Scotland) Act 2001 is modified as follows.

(2) In section 58(4) (functions of the Scottish Ministers under Part 1), after “section” insert “(to such extent as they choose)”.

**42 Cancellation of care service registration**

(1) The Public Services Reform (Scotland) Act 2010 is modified as follows.

- (2) In section 64 (cancellation of registration)—
- (a) in subsection (1), the words “, at any time after the expiry of the period specified in an improvement notice given in respect of a care service,” are repealed,
  - (b) after subsection (1) insert—
    - “(1A) The power in subsection (1) may be exercised—
    - (a) at any time after the expiry of the period specified in an improvement notice given in respect of the care service, or
    - (b) at any time in circumstances which may be prescribed.”.

#### **43 Assistance in inspections from Healthcare Improvement Scotland**

- (1) The Public Services Reform (Scotland) Act 2010 is modified as follows.
- (2) After section 57 insert—

##### **“57A Assistance in inspections from Healthcare Improvement Scotland**

- (1) Healthcare Improvement Scotland may assist SCSWIS in carrying out an inspection under this Part.
- (2) Healthcare Improvement Scotland may charge a reasonable fee determined by it for any assistance provided by virtue of subsection (1).”.

### **PART 4**

#### FINAL PROVISIONS

#### **44 Interpretation**

In this Act—

“health board” means a board constituted under section 2(1)(a) of the National Health Service (Scotland) Act 1978,

[“National Care Service local board” means a board constituted by order under section 9 or 51 of the Public Bodies \(Joint Working\) \(Scotland\) Act 2014,](#)

“special health board” means a board constituted under section 2(1)(b) of ~~that Act~~ [the National Health Service \(Scotland\) Act 1978](#).

#### **45 Ancillary provision**

The Scottish Ministers may by regulations make any incidental, supplementary, consequential, transitional, transitory or saving provision they consider appropriate for the purposes of, or in connection with, or for giving full effect to this Act or any provision made under it.

#### **46 Regulation-making powers**

- (1) A power to make regulations conferred by this Act includes the power to make different provision for different purposes and areas.

- (2) Regulations under—
- (a) the following provisions may modify any enactment other than this Act—
    - (i) section 13,
    - (ii) section 15,
    - ~~(iii) any section in Chapter 6 of Part 1,~~
  - (b) section 45 may modify any enactment including this Act.
- (3) Regulations under any of the following provisions are subject to the affirmative procedure:—
- (a) sections (Power to modify National Care Service principles), 4, 13, 15, (Conferral of additional functions), 27, 28, 29 and 36, 36 and 37,
  - (b) Chapter 2 of Part 4 of schedule (National Care Service Board: constitution and general operation).
- ~~(4) Regulations under any of the following provisions are subject to the negative procedure—~~
- ~~(a) sections 31 and 32,~~
  - ~~(b) paragraph 15 of schedule 1.~~
- (5) Regulations under section 45—
- (a) are subject to the affirmative procedure if they add to, replace or omit any part of the text of an Act, but
  - (b) otherwise, are subject to the negative procedure.
- ~~(6) Regulations under paragraph 11 of schedule 1—~~
- ~~(a) are subject to the affirmative procedure if no regulations have previously been made in exercise of the power, but~~
  - ~~(b) otherwise, are subject to the negative procedure.~~

#### 47 Commencement

- (1) This Part 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 regulations appoint.

#### 48 Short title

The short title of this Act is the National Care Service (Scotland) Act 2023.



**SCHEDULE 1**  
*(introduced by section 4(5)(a))*

**CARE BOARDS: CONSTITUTION AND OPERATION**

**PART 1**

**STATUS**

*Incorporation*

~~1 A care board is a body corporate.~~

*Exclusion of Crown status*

~~2 A care board—~~  
~~(a) is not a servant or agent of the Crown, and~~  
~~(b) does not enjoy any status, immunity or privilege of the Crown.~~

**PART 2**

**POWERS**

*General powers*

~~3 A care board may do anything which appears to it to be—~~  
~~(a) necessary or expedient for the purposes of, or in connection with, the performance of its functions, or~~  
~~(b) otherwise conducive to the performance of its functions.~~

**PART 3**

**PROCEDURE**

*Committees*

~~4 (1) A care board may establish committees and sub-committees.~~  
~~(2) The membership of a committee or sub-committee of a care board may include persons who are not members of the board.~~  
~~(3) A care board may, in accordance with a determination by the Scottish Ministers—~~  
~~(a) pay each member of a committee or sub-committee remuneration and allowances (including expenses), and~~  
~~(b) pay, or make arrangements for the payment of, allowances and gratuities to, or in respect of, any person who is or has been a member of a committee or sub-committee.~~

- ~~(4) The arrangements referred to in sub-paragraph (3)(b) may include—~~
- ~~(a) making payments towards the provision of those allowances and gratuities;~~
  - ~~(b) providing and maintaining schemes for the payment of those allowances and gratuities to, or in respect of, any person who is or has been a member of a committee or sub-committee.~~
- ~~(5) The reference in sub-paragraph (3) to allowances and gratuities includes allowances and gratuities by way of compensation for loss of office as a member of a committee or sub-committee.~~

*Regulation of procedure*

- ~~5 A care board may regulate its own procedure (including quorum) and that of its committees and sub-committees.~~

*Authority to perform functions*

- ~~6 (1) A care board may authorise any of its—~~
- ~~(a) members;~~
  - ~~(b) committees;~~
  - ~~(c) sub-committees, or~~
  - ~~(d) staff;~~
- ~~to perform such of its functions, and to such extent, as it may determine.~~
- ~~(2) The giving of authority under sub-paragraph (1) by a care board does not—~~
- ~~(a) affect the board's responsibility for the performance of its functions, or~~
  - ~~(b) prevent the board from performing the function itself.~~

*Validity of things done*

- ~~7 The validity of anything done by a care board, its committees or sub-committees is not affected by—~~
- ~~(a) a vacancy in its membership,~~
  - ~~(b) a defect in the appointment of a member,~~
  - ~~(c) the disqualification of a member after appointment.~~

**PART 4**

**ACCOUNTABILITY**

*Accounts and audit*

- 8 A care board must—
- (a) keep proper accounts and accounting records,
  - (b) prepare in respect of each financial year a statement of accounts, and
  - (c) send a copy of the statement to the Auditor General for Scotland for auditing.

*Annual report*

- 9 A care board must, after each financial year—
- (a) prepare and make publicly available a report of its activities during the year, and
  - (b) send a copy of the report to the Scottish Ministers.

**PART 5**

**MEMBERS**

*Board composition*

- 10 A care board is to consist of—
- (a) a member to chair it, and
  - (b) not fewer than the minimum, and not more than the maximum, number of ordinary members (see section 4(4)(a)(iii)).

*Appointment of members*

- 11 (1) The Scottish Ministers are to appoint for each care board—
- (a) the chairing member, and
  - (b) the ordinary members.
- (2) Appointments are to be made in accordance with regulations made by the Scottish Ministers.
- (3) A person may be appointed more than once.
- (4) A person who is disqualified from being a member may not be appointed (see paragraph 15).
- (5) Regulations under sub-paragraph (2) may in particular—
- (a) specify qualifications and experience that a person must have in order to be appointed,
  - (b) require appointments to be made so that a board includes a member who fulfils criteria specified in the regulations,

- ~~(e) require that regard is had when making appointments to the desirability of a board including a member who fulfils criteria specified in the regulations;~~
- ~~(6) Criteria, for the purpose of sub-paragraph (5)(b) and (c), may include criteria about a person's—~~
  - ~~(a) having certain qualifications or experience;~~
  - ~~(b) holding a certain office;~~
  - ~~(c) being representative of certain interests.~~

*Members' tenure and other terms and conditions*

- ~~12 (1) A person's membership of a care board continues until the end of the period of appointment (subject to paragraph 14).~~
- ~~(2) In sub-paragraph (1), "the period of appointment" means the period specified by the Scottish Ministers on appointing the person as a member.~~
- ~~(3) The Scottish Ministers may determine other terms and conditions of membership, in relation to matters not covered by this schedule.~~

*Members' remuneration, allowances and pensions*

- ~~13 (1) The Scottish Ministers may—~~
  - ~~(a) pay members of a care board remuneration and allowances (including expenses);~~
  - ~~(b) pay, or make arrangements for the payment of, pensions, allowances and gratuities to, or in respect of, any person who is or has been a member of a care board.~~
- ~~(2) The arrangements referred to in sub-paragraph (1)(b) may include—~~
  - ~~(a) making payments towards the provision of those pensions, allowances and gratuities;~~
  - ~~(b) providing and maintaining schemes for the payment of those pensions, allowances and gratuities.~~
- ~~(3) The reference in sub-paragraph (1)(b) to pensions, allowances and gratuities includes pensions, allowances and gratuities by way of compensation for loss of office.~~

*Early termination of membership*

- ~~14 (1) A person's membership of a care board ends if—~~
  - ~~(a) the person resigns by written notice given to the Scottish Ministers;~~
  - ~~(b) the person becomes disqualified from being a member (see paragraph 15);~~
  - ~~(c) the Scottish Ministers give the person written notice that the person is removed from the board, or~~
  - ~~(d) the Scottish Ministers remove the person as a member by virtue of section 17.~~

- ~~(2) The Scottish Ministers may remove a board member by virtue of sub-paragraph (1)(e) only if they consider that the member is—~~
- ~~(a) unfit to continue to be a member, or~~
  - ~~(b) unable to perform the member’s functions.~~

*Disqualification from membership*

- ~~15 (1) A person is disqualified from being a member of a care board if the person is—~~
- ~~(a) disqualified from being a member by virtue of section 19 of the Ethical Standards in Public Life etc. (Scotland) Act 2000;~~
  - ~~(b) disqualified from being the director of a company registered under the Companies Act 2006 in Great Britain.~~
- ~~(2) The Scottish Ministers may by regulations modify this paragraph to add or remove descriptions of persons disqualified from being a member of a care board.~~
- ~~(3) Regulations under sub-paragraph (2) may not repeal sub-paragraph (1)(a).~~

**PART 6**

**STAFF**

*Chief executive*

- ~~16 (1) A care board is to have a chief executive.~~
- ~~(2) The chief executive is a member of the board’s staff.~~
  - ~~(3) The Scottish Ministers are to appoint the chief executive of each board.~~

*Other staff*

- ~~17 A care board may appoint staff.~~

*Staff terms and conditions*

- ~~18 Staff appointed by a care board are appointed on such terms and conditions as the Scottish Ministers determine.~~

*Staff pensions, allowances and gratuities*

- ~~19 (1) A care board may pay, or make arrangements for the payment of, pensions, allowances and gratuities to, or in respect of, any person who is or has been a member of its staff.~~
- ~~(2) But a care board may not make those payments or arrangements without the Scottish Ministers’ approval.~~
  - ~~(3) The arrangements referred to in sub-paragraph (1) may include—~~
    - ~~(a) making payments toward the provision of pensions, allowances and gratuities;~~

- (b) ~~providing and maintaining schemes for the payment of pensions, allowances and gratuities:~~
- (4) ~~The reference in sub-paragraph (1) to pensions, allowances and gratuities includes pensions, allowances and gratuities by way of compensation for loss of office.~~

~~SCHEDULE 2  
(introduced by section 4(5)(b))~~

~~CARE BOARDS: APPLICATION OF PUBLIC AUTHORITIES LEGISLATION~~

~~*Ethical Standards in Public Life etc. (Scotland) Act 2000*~~

- 1 (1) ~~The Ethical Standards in Public Life etc. (Scotland) Act 2000 is modified as follows:~~
- (2) ~~In schedule 3, after the entry relating to the British Waterways Board insert—~~  
“a care board”.

~~*Scottish Public Services Ombudsman Act 2002*~~

- 2 (1) ~~The Scottish Public Services Ombudsman Act 2002 is modified as follows:~~
- (2) ~~In schedule 2, after paragraph 6 insert—~~  
“Care service  
6A Any care board.”.

~~*Freedom of Information (Scotland) Act 2002*~~

- 3 (1) ~~The Freedom of Information (Scotland) Act 2002 is modified as follows:~~
- (2) ~~In schedule 1, after paragraph 61B insert—~~  
“61C A care board.”.

~~*Public Appointments and Public Bodies etc. (Scotland) Act 2003*~~

- 4 (1) ~~The Public Appointments and Public Bodies etc. (Scotland) Act 2003 is modified as follows:~~
- (2) ~~In schedule 2, after the entry relating to the Skills Development Scotland Co. Limited insert—~~  
“any care board”.

~~*Public Services Reform (Scotland) Act 2010*~~

- 5 (1) ~~The Public Services Reform (Scotland) Act 2010 is modified as follows:~~
- (2) ~~In schedule 5, after the entry relating to Caledonian Maritime Assets Ltd insert—~~  
“any care board”.

- (3) ~~In schedule 8, after the entry relating to Caledonian Maritime Assets Ltd insert—  
“any care board”.~~

~~Public Records (Scotland) Act 2011~~

- 6 (1) ~~The Public Records (Scotland) Act 2011 is modified as follows:~~  
(2) ~~In the schedule, after the entry relating to Caledonian Maritime Assets Ltd insert—  
“15A Care boards”.~~

~~Procurement Reform (Scotland) Act 2014~~

- 7 (1) ~~The Procurement Reform (Scotland) Act 2014 is modified as follows:~~  
(2) ~~In the schedule, before paragraph 16 insert—  
“A care board”.~~

~~Community Empowerment (Scotland) Act 2015~~

- 8 (1) ~~The Community Empowerment (Scotland) Act 2015 is modified as follows:~~  
(2) ~~In section 13(2), after paragraph (a) insert—  
“(aa) any local care board (as defined in section 4(3) of the National Care Service (Scotland) Act 2023) the area of responsibility of which is the same as, or to any extent either includes or is included by, the area of the local authority”.~~  
(3) ~~In schedule 1—  
(a) after the entry beginning “Any integration joint board” insert—  
“Any local care board (as defined in section 4(3) of the National Care Service (Scotland) Act 2023) the area of responsibility of which is the same as, or to any extent either includes or is included by, the area of the local authority”;~~  
~~(b) after the entry relating to the Skills Development Scotland Co. Limited insert—  
“Any special care board (as defined in section 4(3) of the National Care Service (Scotland) Act 2023) that provides services, or on behalf of which services are provided, within the area of the local authority”.~~  
(4) ~~In schedule 3, after the entry relating to British Waterways Board insert—  
“A care board”.~~

~~British Sign Language (Scotland) Act 2015~~

- 9 (1) ~~The British Sign Language (Scotland) Act 2015 is modified as follows:~~  
(2) ~~In the schedule, after the entry relating to Audit Scotland insert—  
“A care board”.~~

*Gender Representation on Public Boards (Scotland) Act 2018*

- ~~10 (1) The Gender Representation on Public Boards (Scotland) Act 2018 is modified as follows:~~  
~~(2) In schedule 1, after the entry relating to Caledonian Maritime Assets Limited insert—~~  
~~“A care board”.~~
- 

SCHEDULE 2A

*(introduced by section (Creation of local boards and removal of other integration models))*

NATIONAL CARE SERVICE LOCAL BOARDS: CREATION AND REMOVAL OF OTHER INTEGRATION  
 MODELS

PART 1

MODIFICATIONS TO THE PUBLIC BODIES (JOINT WORKING) (SCOTLAND) ACT 2014

*Renaming of integration joint boards and removal of alternative integration models*

- 1 (1) The Public Bodies (Joint Working) (Scotland) Act 2014 is modified as follows.  
 (2) The title of Part 1 becomes “National Care Service local boards”.  
 (3) In section 1—  
     (a) in subsection (3)—  
         (i) for paragraph (a) substitute—  
             “(aa)the National Care Service local board (“NCS local board”) to which functions  
             are to be delegated under the scheme by the local authority and the Health  
             Board.”,  
         (ii) in paragraph (b), for “in accordance with that model” substitute “to the NCS  
             local board under the scheme”,  
         (iii) paragraph (c) is repealed,  
         (iv) in paragraphs (d) and (e), for “person to whom the functions are delegated”  
             substitute “NCS local board”,  
     (b) subsection (4) is repealed,  
     (c) in subsection (7), the words from “where” to the end of the subsection are repealed,  
     (d) in subsection (8), the words from “where” to the end of the subsection are repealed,  
     (e) subsection (9) is repealed,  
     (f) subsection (13) is repealed.  
 (4) In section 2, subsection (5) is repealed.



- (5) In section 5(2)(c), for “integration joint” substitute “National care service local”.
- (6) In section 9—
- (a) in subsection (1), the words from “setting” to the end of the subsection are repealed,
  - (b) in subsection (2), for “integration joint” substitute “National Care Service local”,
  - (c) the section’s title becomes “Functions delegated to NCS local board”.
- (7) In section 10—
- (a) in subsection (1), for “An integration joint” substitute “A National Care Service local”,
  - (b) in subsection (5), the words “integration joint” are repealed,
  - (c) in subsection (6), for “an integration joint” substitute “, a”,
  - (d) the section’s title becomes “Chief officer of NCS local board”.
- (8) In section 11—
- (a) in subsection (1), for “integration joint” substitute “National Care Service local”,
  - (b) in subsections (3) and (4), the words “integration joint”, in each place they occur, are repealed,
  - (c) the section’s title becomes “Other staff of NCS local board”.
- (9) In section 12—
- (a) in subsection (1)—
    - (i) in paragraph (a), for “integration joint” substitute “National Care Service local”,
    - (ii) in paragraphs (b) to (d), for “integration joint” substitute “those”,
    - (iii) in paragraph (g)—
      - (A) for “an integration joint” substitute “such a”,
      - (B) the words “integration joint”, where they occur after “the”, are repealed,
    - (iv) in paragraph (h), for “integration joint” substitute “those”,
  - (b) in subsections (2) and (3), the words “integration joint”, in each place they occur, are repealed,
  - (c) in subsection (4)—
    - (i) for “an integration joint” substitute “a National Care Service local”,
    - (ii) for “their” substitute “its”,
  - (d) in subsection (5)(a), the words “integration joint” are repealed,
  - (e) the section’s title becomes “NCS local boards: further provision”.
- (10) In section 14—

- (a) in subsection (1), for the words from “where” to the end of the subsection substitute “where, under an integration scheme, functions have been delegated to a National Care Service local board (“NCS local board”) by a local authority and a Health Board”.
  - (b) in subsections (2) to (4), for “integration joint” substitute “NCS local”.
  - (c) the section’s title becomes “Payments to NCS local boards in respect of delegated functions”.
- (11) Section 15 is repealed.
- (12) Section 16 is repealed.
- (13) Section 17 is repealed.
- (14) Section 18 is repealed.
- (15) Section 19 is repealed.
- (16) In section 21, the word “, 16(1)” is repealed.
- (17) In section 23—
- (a) in subsection (1)(a), for “an integration authority” substitute “a National Care Service local board”.
  - (b) in subsection (2)—
    - (i) for the words from “Where” to “board, the” substitute “The”.
    - (ii) for “integration joint”, where it occurs after “of the”, substitute “National Care Service local”.
  - (c) subsection (3) is repealed.
- (18) In section 24—
- (a) in subsection (1)(a), for “an integration authority” substitute “a National Care Service local board”.
  - (b) in subsection (2)—
    - (i) for the words from “Where” to “board, the” substitute “The”.
    - (ii) for “integration joint”, where it occurs after “of the”, substitute “National Care Service local”.
  - (c) subsection (3) is repealed.
- (19) In section 25—
- (a) in subsection (2), for “integration authority” substitute “National Care Service local board”.
  - (b) in subsection (3), for “integration authority” substitute “board”.
  - (c) in subsection (5), for the words from “an integration” to “joint” substitute “a”.
- (20) In section 26—
- (a) in subsection (1)—

- (i) for the words from “Where” to “, it” substitute “A National Care Service local board”.
    - (ii) for “integration authority”, where it occurs after “the”, substitute “board”.
  - (b) subsection (2) is repealed.
  - (c) subsection (2A) is repealed.
  - (d) in subsection (3)—
    - (i) for “integration authority”, in the first place it occurs, substitute “board”.
    - (ii) for “the integration authority”, in the second place it occurs, substitute “it”.
  - (e) the section’s title becomes “Directions by NCS local board”.
- (21) In section 27—
  - (a) in subsection (1)(b), for “integration authority” substitute “National Care Service local board”.
  - (b) in subsection (2)—
    - (i) in paragraph (a), for “integration authority” substitute “National Care Service local board”.
    - (ii) in paragraph (b), for “integration authority” substitute “board”.
  - (c) in subsection (3), for “integration authority” substitute “National Care Service local board”.
  - (d) in subsection (6), for the words from “an integration” to “joint” substitute “a National Care Service local”.
- (22) In section 28—
  - (a) in subsection (1)—
    - (i) the words “or 19(2)” are repealed.
    - (ii) for “an integration authority” substitute “a National Care Service local board (“NCS local board”)”.
  - (b) in subsections (2) to (6) for “integration authority”, in each place it occurs, substitute “NCS local board”.
- (23) In section 29—
  - (a) in subsection (1), for “integration authority” substitute “National Care Service local board”.
  - (b) in subsection (2)(c), for “integration authority” substitute “board”.
  - (c) for subsection (4) substitute—
    - “(4) If the functions of the board are to be delegated to it before the day prescribed under section 9(3), the first strategic plan must specify the day on which the functions are to be delegated.”.
  - (d) in subsection (5), for “an integration authority” substitute “a board”.

(e) in subsection (6)—

(i) in paragraph (a)—

(A) the words from “in relation” to “board,” are repealed,

(B) for “the authority” substitute “the board”,

(ii) paragraph (b) is repealed.

(24) In section 30—

(a) in subsection (1), for “an integration authority” substitute “a National Care Service local board”,

(b) in subsection (2), for “integration authority” substitute “board”,

(c) in subsection (3)—

(i) in the opening words, for “integration authority” substitute “board”,

(ii) in paragraphs (a) and (b), for “integration authority” substitute “National Care Service local board”,

(d) in subsection (4), for “integration authority” substitute “board”.

(25) In section 32—

(a) in subsection (1)—

(i) in the opening words, for “an integration authority” substitute “a National Care Service local board (“NCS local board”)”,

(ii) for paragraphs (a) to (c) substitute—

“(aa) at least one person nominated by the Health Board that is a constituent authority in relation to the NCS local board,

(ab) at least one person nominated—

(i) by the local authority that is a constituent authority in relation to the NCS local board, or

(ii) by all of those authorities if there is more than one.”,

(iii) in paragraphs (d) and (e), for “integration authority” substitute “NCS local board”,

(b) in subsections (3) and (4) and (7) to (9), for “integration authority” substitute “NCS local board”,

(c) in subsection (10), for “integration authority” substitute “NCS local board’s”,

(d) in subsection (11)—

(i) for “integration authority” substitute “NCS local board’s”,

(ii) for “the authority” substitute “the board”,

(e) in subsection (12)—

(i) for “integration authority” substitute “NCS local board”,

(ii) for “the authority” substitute “the board”.

(26) In section 33—

(a) in subsection (1), for “an integration authority” substitute “a National Care Service local board”,

(b) in subsections (2) to (4), for “integration authority”, in each place it occurs, substitute “board”,

(c) in subsection (5)—

(i) in paragraph (a), the words from “where” to “board,” are repealed,

(ii) paragraphs (b) and (c) are repealed,

(iii) in paragraph (d), for “integration authority” substitute “board”,

(d) in subsection (7), for “integration authority” substitute “board”.

(27) In section 34—

(a) in subsection (1)—

(i) for the words from “an integration” to “joint board” substitute “a National Care Service local board”,

(ii) for “the authority” substitute “the board”,

(b) subsections (2) and (3) are repealed.

(28) In section 35—

(a) in subsection (1), for “an integration authority” substitute “the National Care Service local board”,

(b) in subsection (2), for “an integration authority” substitute “the board”.

(29) In section 36—

(a) in subsection (1), for “integration authority” substitute “National Care Service local board”,

(b) in subsections (2) and (3), for “integration authority” substitute “board”,

(c) subsection (5) is repealed.

(30) In section 37—

(a) in subsection (1), for “An integration authority” substitute “A National Care Service local board”,

(b) in subsection (2), for “integration authority”, in each place it occurs, substitute “board”,

(c) in subsection (3), for “an integration authority” substitute “a board”,

(d) in subsection (4), for “integration authority” substitute “board”,

(e) in subsection (5)—

(i) for the words from “an integration” to “joint” substitute “a”,

- (ii) for “the integration authority” substitute “the board”.
  - (f) subsections (6) and (7) are repealed.
  - (g) in subsection (10)—
    - (i) in the opening words, the words “, in relation to an integration authority,” are repealed.
    - (ii) in paragraph (a), after “day” insert “in relation to the board in question”.
    - (iii) in paragraph (b), for “integration authority” substitute “board”.
- (31) In section 38—
  - (a) subsection (1) is repealed.
  - (b) in subsection (2)—
    - (i) for “that the” substitute “in relation to a National Care Service local board that the board’s”
    - (ii) for “integration authority” substitute “board”.
  - (c) in subsection (6), for “An integration authority” substitute “A board”.
- (32) In section 39—
  - (a) in subsection (1), for “integration authority” substitute “National Care Service local board”.
  - (b) in subsection (2), for “integration authority” substitute “board”.
- (33) In section 41—
  - (a) in subsection (1)(a)—
    - (i) for “an integration authority” substitute “a National Care Service local board”.
    - (ii) for “the integration authority” substitute “the board”.
  - (b) in subsection (3)—
    - (i) the word “integration” is repealed.
    - (ii) for “authority”, in both places it occurs, substitute “board”.
  - (c) in subsection (5), for “integration authority” substitute “board”.
- (34) In section 42—
  - (a) in subsection (1), for “integration authority” substitute “National Care Service local board”.
  - (b) in subsection (4)—
    - (i) in the opening words, for “An integration authority” substitute “A board”.
    - (ii) in paragraph (b), for “the persons mentioned in subsection (5).” substitute “—  
—

- (i) each constituent authority.”
  - (c) subsection (5) is repealed.
  - (d) in subsection (6)—
    - (i) for the words from “an integration” to “joint” substitute “the”,
    - (ii) for “the authority” substitute “the board”.
  - (e) subsection (7) is repealed.
  - (f) in subsection (8)—
    - (i) the definition of “other authority” is repealed,
    - (ii) in the definition of “reporting year”—
      - (A) in the opening words, for “an integration authority” substitute “a National Care Service local board”,
      - (B) in paragraph (a), the words “or, as the case may be, 15(2)” are repealed.
  - (g) the section’s title becomes “NCS local board: performance report”.
- (35) Section 43 is repealed.
- (36) In section 46(3), paragraphs (c) and (d) are repealed.
- (37) In section 47—
- (a) for subsections (1) to (3) substitute—
    - “(1A) An integration scheme may not be varied so that it—
      - (a) covers the area of a local authority that did not jointly prepare it, or
      - (b) ceases to cover the area of a local authority that did.
    - (2) Where a Health Board and a local authority (or authorities) decide under section 44 or 45 that they wish to make a change of a kind described by subsection (1A), they may do so only by preparing a new integration scheme under section 2(2).”
  - (b) in subsection (4), the words “1 or (as the case may be)” are repealed.
- (38) In section 48, in subsections (2) and (3), for “an integration joint” substitute “a National Care Service local”.
- (39) In section 49(4)(c) for “an integration joint” substitute “a National Care Service local”.
- (40) In section 51(2)—
- (a) in paragraph (a), for “an integration joint board” substitute “a National Care Service local board (“NCS local board”)”,
  - (b) in paragraphs (b) to (d), for “integration joint” substitute “NCS local”.
- (41) In section 52—
- (a) in subsection (1), paragraphs (b) and (c) are repealed.

- (b) in subsection (2), paragraphs (b) and (c) are repealed.
  - (c) in subsections (3) and (4), for “an integration joint board” substitute “a National Care Service local board”.
- (42) In section 53(2)—
  - (a) in paragraph (c), for “an integration joint board” substitute “a National Care Service local board”.
  - (b) paragraph (d) is repealed.
- (43) Section 59 is repealed.
- (44) In section 60—
  - (a) in subsection (1)—
    - (i) in the opening words, after “authority are” insert “the functions delegated to a National Care Service local board in pursuance of the integration scheme for the area.”.
    - (ii) paragraphs (a) to (d) are repealed.
  - (b) subsection (2) is repealed.
- (45) In section 61, for “an integration joint board” substitute “a National Care Service local board”.
- (46) In section 68(1)—
  - (a) the definition of “integration joint board” is repealed.
  - (b) the definition of “integration joint monitoring committee” is repealed.
  - (c) in the appropriate place alphabetically insert—  
““National Care Service local board” means a board established by order under section 9 or 51.”.

## PART 2

### MODIFICATIONS TO OTHER ENACTMENTS

#### Local Government (Scotland) Act 1973

- 2 (1) The Local Government (Scotland) Act 1973 is modified as follows.
- (2) In section 106—
  - (a) in subsection (1)(bb)—
    - (i) for “an integration joint board” substitute “a National Care Service local board”.
    - (ii) the words “section 9 of” are repealed.



- (b) in subsection (1A), for “an integration joint board” substitute “a National Care Service local board”.

Ethical Standards in Public Life etc. (Scotland) Act 2000

- 3 (1) The Ethical Standards in Public Life etc. (Scotland) Act 2000 is modified by sub-paragraph (2).

- (2) In schedule 3—

- (a) the entry relating to an integration joint board is repealed,
- (b) after the entry relating to the National Care Service Board (inserted by schedule (National Care Service Board: application of public authorities legislation of this Act) insert—

“A National Care Service local board established by order under the Public Bodies (Joint Working) (Scotland) Act 2014”.

Scottish Public Services Ombudsman Act 2002

- 4 (1) The Scottish Public Services Ombudsman Act 2002 is modified as follows.

- (2) In schedule 2—

- (a) after paragraph 6A (inserted by paragraph 2 of schedule (National Care Service Board: application of public authorities legislation) of this Act) insert—

“6B Any National Care Service local board established by order under the Public Bodies (Joint Working) (Scotland) Act 2014.”.

- (b) paragraph 25ZC is repealed.

Freedom of Information (Scotland) Act 2002

- 5 (1) The Freedom of Information (Scotland) Act 2010 is modified as follows.

- (2) In schedule 1—

- (a) paragraph 67B is repealed,
- (b) before paragraph 73 insert—

“72C A National Care Service local board established by order under the Public Bodies (Joint Working) (Scotland) Act 2014.”.

Public Services Reform (Scotland) Act 2010

- 6 (1) The Public Services Reform (Scotland) Act 2010 is modified as follows.

- (2) In schedule 5—

- (a) the entry for any integration joint board established under section 9(2) of the Public Bodies (Joint Working) (Scotland) Act 2014 is repealed,

(b) before the entry for the Board of Trustees for the National Galleries of Scotland insert—

“any National Care Service local board established by order under the Public Bodies (Joint Working) (Scotland) Act 2014”.

(3) In schedule 8, before the entry for any National Park authority insert—

“any National Care Service local board established by order under the Public Bodies (Joint Working) (Scotland) Act 2014”.

#### *Public Records (Scotland) Act 2011*

7 (1) The Public Records (Scotland) Act 2011 is modified as follows.

(2) In the schedule—

(a) the entry relating to integration joint boards established under section 9(2) of the Public Bodies (Joint Working) (Scotland) Act 2014 is repealed.

(b) before the entry relation to the National Convener of Children’s Hearings Scotland insert—

“National Care Service local boards established by order under the Public Bodies (Joint Working) (Scotland) Act 2014”.

#### *Procurement Reform (Scotland) Act 2014*

8 (1) The Procurement Reform (Scotland) Act 2014 is modified as follows.

(2) In the schedule, before paragraph 38 insert—

“37B A National Care Service local board established by order under the Public Bodies (Joint Working) (Scotland) Act 2014”.

#### *British Sign Language (Scotland) Act 2015*

9 (1) The British Sign Language (Scotland) Act 2015 is modified as follows.

(2) In the schedule, before the entry relating to the Office of the Scottish Charity Regulator insert—

“A National Care Service local board established by order under the Public Bodies (Joint Working) (Scotland) Act 2014”.

#### *Islands (Scotland) Act 2018*

10 (1) The Islands (Scotland) Act 2018 is modified as follows.

(2) In the schedule, paragraph 60, and the heading (integration joint boards) immediately preceding it, are repealed.

## SCHEDULE 2B

*(introduced by section (Reforms in connection with the functions of local boards))*

### NATIONAL CARE SERVICE LOCAL BOARDS: REFORMS IN CONNECTION WITH FUNCTIONS

#### Creation of power to add functions capable of being delegated under integration schemes

- 1 (1) The Public Bodies (Joint Working) (Scotland) Act 2014 is modified as follows.
- (2) In section 1, for subsection (12) substitute—  
“(12) The Scottish Ministers may by regulations modify the schedule to add or remove an enactment.”

#### Replacement of integration principles with NCS principles and strategy

- 2 (1) The Public Bodies (Joint Working) (Scotland) Act 2014 is modified in accordance with sub-paragraphs (2) to (11).
- (2) In section 3(2), for paragraph (a) substitute—  
“(aa)the National Care Service principles.”
- (3) Section 4 is repealed.
- (4) In section 27, in subsections (7)(b) and (8), for “improve compliance with the integration delivery” substitute “be more consistent with the National Care Service”.
- (5) In section 29(2), in paragraph (b), for the words from “are” to the end of the paragraph substitute “—
  - (i) reflect the National Care Service principles,
  - (ii) conform to the National Care Service strategy,
  - (iii) are intended to achieve, or contribute to achieving, the national health and wellbeing outcomes, and”.
- (6) In section 30(2), for paragraph (a) substitute—  
“(aa)the National Care Service principles,  
(ab) the National Care Service strategy, and”.
- (7) Section 31 is repealed.
- (8) In section 37(2)(a), for sub-paragraph (i) substitute—  
“(ia)the National Care Service principles,  
(ib) the National Care Service strategy, and”.
- (9) In section 38(2), for “complies with the integration delivery” substitute “reflects the National Care Service”.

- (10) In section 40, for paragraph (a) substitute—  
“(aa)the National Care Service principles,  
(ab) the National Care Service strategy.”
- (11) In section 68(1)—  
(a) the definition of “integration delivery principles” is repealed,  
(b) in the appropriate place alphabetically insert—  
““National Care Service principles” has the meaning given by section 1 of the  
National Care Service (Scotland) Act 2025,  
“National Care Service strategy” has the meaning given by section (*The National*  
*Care Service strategy*)(3) of the National Care Service (Scotland) Act 2025.”
- (12) The National Health Service (Scotland) Act 1978 is modified in accordance with  
sub-paragraphs (13) and (14).
- (13) In section 10I—  
(a) in subsection (1B)—  
(i) in paragraph (a), for “complying with the integration delivery” substitute  
“being provided in a way that is consistent with the National Care Service”,  
(ii) in paragraph (b), for “is complying with the integration delivery” substitute  
“being undertaken consistently with the National Care Service”,  
(iii) in paragraph (c), for “complying with the integration delivery” substitute  
“reflecting the National Care Service”,  
(iv) in paragraph (d), for “complies with the integration delivery” substitute  
“reflects the National Care Service”,  
(b) in subsection (3), for the definition of “integration delivery principles” substitute—  
““National Care Service principles” has the meaning given by section 1 of the  
National Care Service (Scotland) Act 2025.”
- (14) In section 10J—  
(a) in subsection (2)—  
(i) in paragraph (f), for “complying with the integration delivery” substitute  
“being provided in a way that is consistent with the National Care Service”,  
(ii) in paragraph (g), for “is complying with the integration delivery” substitute  
“being undertaken consistently with the National Care Service”,  
(iii) in paragraph (h), for “complying with the integration delivery” substitute  
“reflecting the National Care Service”,  
(iv) in paragraph (i), for “complies with the integration delivery” substitute  
“reflects the National Care Service”,  
(b) in subsection (8), for the definition of “integration delivery principles” substitute—

“National Care Service principles” has the meaning given by section 1 of the National Care Service (Scotland) Act 2025;”.

(15) The Public Services Reform (Scotland) Act 2010 is modified in accordance with sub-paragraph (16).

(16) In section 53—

(a) in subsection (2)—

(i) in paragraph (f), for “complying with the integration delivery” substitute “being provided in a way that is consistent with the National Care Service”.

(ii) in paragraph (g), for “complying with the integration delivery” substitute “being undertaken consistently with the National Care Service”.

(iii) in paragraph (h), for “complying with the integration delivery” substitute “reflecting the National Care Service”.

(iv) in paragraph (i), for “complies with the integration delivery” substitute “reflects the National Care Service”.

(b) in subsection (7), for the definition of “integration delivery principles” substitute—  
“National Care Service principles” has the meaning given by section 1 of the National Care Service (Scotland) Act 2025;”.

#### *Further modifications in relation to strategic planning*

3 (1) The Public Bodies (Joint Working) (Scotland) Act 2014 is modified as follows.

(2) In section 29(2), before paragraph (a) insert—

“(za)setting out the board’s assessment of the needs of the population in the area of the local authority that are to be met through the carrying out of the integration functions over the period of the plan.”.

(3) In section 33—

(a) after subsection (6) insert—

“(6A)Taking account of any views expressed by virtue of subsection (4)(c), the board is then to—

(a) prepare a third draft of the strategic plan,

(b) send a copy to the National Care Service Board, and

(c) invite it to express views on the draft.”.

(b) in subsection (7), for “(4)(c)” substitute “(6A)(c)”.

(4) In section 37(2)—

(a) the word “and” immediately preceding paragraph (b) is repealed,

(b) before that paragraph insert—

“(ab) assess the needs of the population in the area of the local authority that are being, or might be, met through the carrying out of the integration functions (including by consulting the public in the area),”.

*Modifications in relation to performance reports*

- 4 (1) The Public Bodies (Joint Working) (Scotland) Act 2014 is modified as follows.
- (2) In section 42—
- (a) in subsection (4)(b) (as modified by paragraph 1(34)(b) of schedule (*National Care Service local boards: creation and removal of other integration models*)), after sub-paragraph (i) insert—
- “(ii) the National Care Service Board.”.
- (b) after subsection (6) insert—
- “(6A) The Scottish Ministers may by regulations modify subsection (4)(a) to change the period within which a performance report is to be published.”.

*Creation of power for National Care Service Board to give directions and guidance*

- 5 (1) The Public Bodies (Joint Working) (Scotland) Act 2014 is modified as follows.
- (2) In section 52—
- (a) after subsection (3) insert—
- “(3A) The National Care Service Board, acting in pursuance of its function under section (*Responsibility for monitoring and improvement*) of the National Care Service (Scotland) Act 2025, may also give directions under subsections (1) to (3).”.
- (b) after subsection (4) insert—
- “(4A) Subsection (4) does not require a person to comply with a direction given by the National Care Service Board if, and to the extent that, doing so would result in the person breaching a duty to comply with a direction given by the Scottish Ministers.”.
- (c) in subsection (5)(a), after “directions” insert “given by the same person”.
- (d) in subsection (6), for the words from “The” to “direction” substitute “A direction may not be given under subsection (1) or (2)”.
- (3) In section 53, after subsection (1) insert—
- “(1A) A person mentioned in subsection (2) must have regard to any guidance issued by the National Care Service Board about its functions under or in relation to this Act.
- (1B) Before issuing guidance under subsection (1A), the National Care Service Board must consult—
- (a) each local authority,

- (b) each Health Board,
- (c) each National Care Service local board,
- (d) such persons appearing to be representative of each of the following groups as the Board thinks fit—
  - (i) health professionals,
  - (ii) users of health care,
  - (iii) carers of users of health care,
  - (iv) social care professionals,
  - (v) users of social care,
  - (vi) carers of users of social care, and
- (e) such other persons as the Board thinks fit having regard to the purpose of the guidance that the Board intends to issue.”

## SCHEDULE 2C

*(introduced by section (Establishment of the National Care Service Board)(2))*

### NATIONAL CARE SERVICE BOARD: CONSTITUTION AND GENERAL OPERATION

#### PART 1

#### STATUS

##### Incorporation

- 1 The National Care Service Board is a body corporate.

##### Exclusion of Crown status

- 2 The National Care Service Board—
- (a) is not a servant or agent of the Crown, and
  - (b) does not enjoy any status, immunity or privilege of the Crown.

#### PART 2

### GENERAL POWERS AND PROCEDURE

##### General powers

- 3 (1) The National Care Service Board may do anything which appears to it to be—

- (a) necessary or expedient for the purposes of, or in connection with, the performance of its functions, or
  - (b) otherwise conducive to the performance of its functions.
- (2) The generality of sub-paragraph (1) is subject to any enactment providing (in any terms) that the Board may not do something.
- (3) The Board may not—
  - (a) borrow money.
  - (b) charge fees for providing goods or services, except at rates approved by the Scottish Ministers.

#### Committees

- 4 (1) The National Care Service Board may establish committees and sub-committees.
- (2) The membership of the Board's committees and sub-committees may include (and may be comprised entirely by) persons who are not members of the Board.
- (3) The National Care Service Board may—
  - (a) pay a member of one of its committees or sub-committees remuneration, allowances (including expenses) and gratuities, and
  - (b) make arrangements for the payment of allowances and gratuities to, or in respect of, any person who is or has been a member of one of its committees or sub-committees.
- (4) The arrangements referred to in sub-paragraph (3)(b) may include—
  - (a) making payments towards the provision of allowances and gratuities,
  - (b) providing and maintaining schemes for the payment of allowances and gratuities.
- (5) In sub-paragraph (3)—
  - (a) references to a member of a committee or sub-committee do not include a person who is, at the same time, a member of the Board,
  - (b) references to allowance and gratuities do not include—
    - (i) pensions, or
    - (ii) allowances or gratuities by way of compensation for loss of office.

#### Regulation of procedure

- 5 The National Care Service Board may regulate its own procedure (including quorum) and that of its committees and sub-committees.

#### Authority to perform functions

- 6 (1) The National Care Service Board may authorise any of its—



- (a) members,
- (b) committees,
- (c) sub-committees, or
- (d) staff,

to perform such of its functions (and to such extent) as it may determine.

- (2) The giving of authority under sub-paragraph (1) to perform a function does not—
- (a) affect the Board’s responsibility for the performance of the function, or
  - (b) prevent the Board from performing the function itself.

#### Validity of things done

- 7 The validity of anything done by the National Care Service Board, its committees or sub-committees is not affected by—
- (a) a vacancy in its membership,
  - (b) a defect in the appointment of a member,
  - (c) the disqualification of a person as a member after appointment.

### **PART 3**

#### ACCOUNTABILITY

#### Accounts and audit

- 8 The National Care Service Board must—
- (a) keep proper accounts and accounting records,
  - (b) prepare in respect of each financial year a statement of accounts, and
  - (c) send a copy of the statement to the Auditor General for Scotland for auditing.

#### Annual report

- 9 (1) The National Care Service Board must, after each financial year—
- (a) prepare and make publicly available a report of its activities during the year, and
  - (b) send a copy of the report to—
    - (i) the Scottish Ministers,
    - (ii) local authorities, and
    - (iii) health boards.
- (2) A report under sub-paragraph (1) is, in particular, to set out how the ways in which the Board has carried out its functions are consistent with—

- (a) the National Care Service principles, and
- (b) the National Care Service strategy.

#### PART 4

#### MEMBERS

#### CHAPTER 1

#### PROVISIONS ABOUT BOARD MEMBERSHIP

##### Board composition

- 10 The National Care Service Board is to consist of—
- (a) a member to chair it, and
  - (b) ordinary members.

##### Appointment of members

- 11 (1) The Scottish Ministers are to appoint the members of the National Care Service Board.
- (2) Members of the Board may not be appointed until the Scottish Ministers have exercised the regulation-making power conferred by paragraph 17.

##### Tenure

- 12 (1) A person's membership of the Board continues until the end of the period of appointment (subject to paragraph 15).
- (2) In sub-paragraph (1), "the period of appointment" means the period specified by the Scottish Ministers on appointing the person as a member.

##### Remuneration, allowances and gratuities

- 13 (1) The National Care Service Board may pay its members such remuneration and allowances (including expenses) as it may, with the approval of the Scottish Ministers, determine.
- (2) The National Care Service Board may not pay its members or former members, or make arrangements for the payment to them of—
- (a) pensions, or
  - (b) allowances or gratuities by way of compensation for loss of office.

##### Other terms and conditions

- 14 The Scottish Ministers may determine the terms and conditions of membership of the National Care Service Board in relation to matters not covered by this schedule.

*Early termination*

- 15 (1) A person's membership of the National Care Service Board ends if—
- (a) the person resigns by written notice given to the Scottish Ministers,
  - (b) the person becomes disqualified from being a member (see paragraph 16),
  - (c) the Scottish Ministers give the person written notice that the person is removed from the Board.
- (2) The Scottish Ministers may remove a member by virtue of sub-paragraph (1)(c) only if—
- (a) the member has been absent, without permission or reasonable excuse, from meetings of the Board for at least 6 consecutive months, or
  - (b) the Ministers consider that the member is—
    - (i) unfit to continue to be a member, or
    - (ii) unable to perform the member's functions.

*Disqualification from membership*

- 16 A person is disqualified from being a member of the National Care Service Board if the person is—
- (a) disqualified from being a member by virtue of section 19 of the Ethical Standards in Public Life etc. (Scotland) Act 2000,
  - (b) a member of the House of Commons,
  - (c) a member of the Scottish Parliament.

**CHAPTER 2**

POWERS TO MODIFY CHAPTER 1

*Power to make provision about Board composition and appointments*

- 17 (1) The Scottish Ministers may by regulations make further about the composition of the National Care Service Board and the appointment of its members.
- (2) Regulations under sub-paragraph (1) may modify Chapter 1, and references in this paragraph to matters being specified in regulations include their being specified in that Chapter by virtue of modifications made to it by regulations.
- (3) Regulations under sub-paragraph (1) may, in particular—
- (a) specify the qualifications and experience that an individual must have in order to be appointed,
  - (b) require appointments to be made so that the Board includes a member who fulfils criteria specified in the regulations,



*Power to make provision about early termination and disqualification*

- 18 (1) The Scottish Ministers may by regulations modify paragraphs 15 and 16.  
(2) Regulations under sub-paragraph (1) may not amend or repeal paragraph 16(a).

**PART 5**

**STAFF**

*Chief executive*

- 19 (1) The National Care Service Board is to have a chief executive.  
(2) The chief executive is a member of the Board's staff.  
(3) The first chief executive is to be appointed by the Scottish Ministers.  
(4) Subsequent chief executives are to be appointed by the Board.  
(5) The Board may not appoint a chief executive without the Scottish Ministers' approval.

*Other staff*

- 20 The National Care Service Board may appoint staff.

*Staff terms and conditions*

- 21 (1) The staff of the National Care Service Board are appointed on terms and conditions determined by the Board.  
(2) The Board may not determine staff terms and conditions without the Scottish Ministers' approval.  
(3) Despite sub-paragraph (1), the first chief executive of the Board is appointed on terms and conditions determined by the Scottish Ministers.

*Pensions, allowances and gratuities*

- 22 (1) The National Care Service Board may, with the approval of the Scottish Ministers, pay or make arrangements for the payment of pensions, allowances (including expenses) and gratuities to, or in respect of, any person who is or has been a member of the Board's staff.  
(2) Those arrangements may include—  
(a) making payments towards the provision of pensions, allowances and gratuities,  
(b) providing and maintaining schemes for the payment of pensions, allowances and gratuities.

- (3) The reference in sub-paragraph (1) to pensions, allowances and gratuities includes pensions, allowances and gratuities by way of compensation for loss of office.

## SCHEDULE 2D

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*(introduced by section (Establishment of the National Care Service Board)(3))*  
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### NATIONAL CARE SERVICE BOARD: APPLICATION OF PUBLIC AUTHORITIES LEGISLATION

#### *Ethical Standards in Public Life etc. (Scotland) Act 2000*

- 1 (1) The Ethical Standards in Public Life etc. (Scotland) Act 2000 is modified as follows.  
 (2) In schedule 3, after the entry relating to the Mental Welfare Commission for Scotland insert—  
       “National Care Service Board”.

#### *Scottish Public Services Ombudsman Act 2002*

- 2 (1) The Scottish Public Services Ombudsman Act 2002 is modified as follows.  
 (2) In schedule 2, after paragraph 6 insert—  
       “Care Service  
       6A     The National Care Service Board.”.

#### *Freedom of Information (Scotland) Act 2002*

- 3 (1) The Freedom of Information (Scotland) Act 2002 is modified as follows.  
 (2) In schedule 1, after paragraph 72A insert—  
       “72B    The National Care Service Board.”.

#### *Public Appointments and Public Bodies etc. (Scotland) Act 2003*

- 4 (1) The Public Appointments and Public Bodies etc. (Scotland) Act 2003 is modified as follows.  
 (2) In schedule 2, after the entry relating to Learning & Teaching Scotland insert—  
       “National Care Service Board, but Part 1 does not apply in relation to the appointment of a member if, in accordance with schedule (*National Care Service Board: constitution and general operation*) to the National Care Service (Scotland) Act 2025, the appointment must be made on the basis of a nomination to the Scottish Ministers”.

*Public Services Reform (Scotland) Act 2010*

- 5 (1) The Public Services Reform (Scotland) Act 2010 is modified as follows.
- (2) In schedule 5, after the entry relating to Moredun Research Institute insert—  
“National Care Service Board”.
- (3) In schedule 8, after the entry relating to Moredun Research Institute insert—  
“National Care Service Board”.

*Public Records (Scotland) Act 2011*

- 6 (1) The Public Records (Scotland) Act 2011 is modified as follows.
- (2) In the schedule, after the entry relating to the Mobility and Access Committee for Scotland insert—  
“National Care Service Board”.

*Procurement Reform (Scotland) Act 2014*

- 7 (1) The Procurement Reform (Scotland) Act 2014 is modified as follows.
- (2) In the schedule, after paragraph 37 insert—  
“37A National Care Service Board”.

*British Sign Language (Scotland) Act 2015*

- 8 (1) The British Sign Language (Scotland) Act 2015 is modified as follows.
- (2) In the schedule, after the entry relating to a health board insert—  
“The National Care Service Board.”.

*Public Contracts (Scotland) Regulations 2015*

- 9 (1) The Public Contracts (Scotland) Regulations 2015 (S.S.I. 2015/446) are modified as follows.
- (2) In Part 1 of schedule 1, after the entry relating to the National Audit Office insert—  
“National Care Service Board”.

*Gender Representation on Public Boards (Scotland) Act 2018*

- 10 (1) The Gender Representation on Public Boards (Scotland) Act 2018 is modified as follows.
- (2) In schedule 1, after the entry relating to the Mobility and Access Committee for Scotland insert—

<u>“National Care Service Board</u>	<u>Members appointed only by virtue of being nominated for membership in accordance with schedule (<i>National Care Service Board: constitution and general operation</i>) of the National Care Service (Scotland) Act 2025”.</u>
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*Islands (Scotland) Act 2018*

- 11 (1) The Islands (Scotland) Act 2018 is modified as follows.  
 (2) In the schedule, after paragraph 71 insert—

“National Care Service institutions72 National Care Service Board”.

~~SCHEDULE 3~~  
*(introduced by section 27)*

~~ENACTMENTS GIVING RISE TO TRANSFERABLE LOCAL AUTHORITY FUNCTIONS~~

~~National Assistance Act 1948~~~~Matrimonial Proceedings (Children) Act 1958~~~~Social Work (Scotland) Act 1968~~~~Children Act 1975~~~~Local Government and Planning (Scotland) Act 1982, section 24~~~~Health and Social Services and Social Security Adjudications Act 1983, Part 7~~~~Foster Children (Scotland) Act 1984~~~~Children (Scotland) Act 1995~~~~Criminal Procedure (Scotland) Act 1995~~~~Adults with Incapacity (Scotland) Act 2000~~~~Mental Health (Care and Treatment) (Scotland) Act 2003~~~~Management of Offenders etc. (Scotland) Act 2005~~~~Adoption and Children (Scotland) Act 2007~~~~Adult Support and Protection (Scotland) Act 2007~~~~Children’s Hearings (Scotland) Act 2011~~~~Social Care (Self-directed Support) (Scotland) Act 2013~~~~Children and Young People (Scotland) Act 2014~~~~Human Trafficking and Exploitation (Scotland) Act 2015~~~~Criminal Justice (Scotland) Act 2016~~



~~Carers (Scotland) Act 2016~~

~~Age of Criminal Responsibility (Scotland) Act 2019~~

~~Management of Offenders (Scotland) Act 2019~~

**SCHEDULE 4**  
*(introduced by section 34)*

**MODIFICATIONS IN CONNECTION WITH PART 1**

*Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947*

- 1 (1) ~~The Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 is modified as follows:~~
- (2) ~~In section 1—~~
- (a) ~~in subsection (1), after paragraph (f) insert—~~
- ~~“(g) by the Scottish Ministers or a care board under section 26(1) of the National Care Service (Scotland) Act 2023.”;~~
- (b) ~~in subsection (2A), after “Water” insert “or a care board”.~~

*Local Government (Scotland) Act 1973*

- 2 (1) ~~The Local Government (Scotland) Act 1973 is modified as follows:~~
- (2) ~~After section 82 insert—~~

*“Social care*

**82A Power to provide services for National Care Service**

- (1) ~~A local authority may enter into a contract to provide, or assist in providing a relevant service:~~
- (2) ~~A relevant service is a service provided in exercise of a function transferred, wholly or partly, from a local authority by virtue of section 27 of the National Care Service (Scotland) Act 2023.”.~~

*Public Services Reform (Scotland) Act 2010*

- 3 (1) ~~The Public Services Reform (Scotland) Act 2010 is modified as follows:~~
- (2) ~~In section 14, after subsection (5) insert—~~
- ~~“(5A) An order under this section may not transfer a function that may be transferred by regulations under section 28 of the National Care Service (Scotland) Act 2023.”.~~