



Community Care and Health (Scotland) Act 2002

2002 asp 5

PART 2

JOINT WORKING ETC.

17 **Scottish Ministers' power to require delegation etc. between local authorities and NHS bodies**

(1) Subject to subsection (4)(a) of section 15 of this Act, if in the opinion of the Scottish Ministers (formed after consultation with the local authority or NHS body in question)

(a) any function—

(i) which is mentioned in paragraph (a) of subsection (2) of that section or which may be prescribed is not being exercised adequately by a local authority; or

(ii) which is mentioned in paragraph (b) of subsection (2) of that section or which may be prescribed is not being exercised adequately by an NHS body; and

(b) it would be likely to lead to an improvement in the way in which the function is exercised if the authority or the body in question were to enter into—

(i) arrangements mentioned in subsection (1) of that section; or

(ii) such other arrangements as may be prescribed,

as respects the function (the “principal function”),

the Scottish Ministers may direct the local authority or, as the case may be, the NHS body to enter into such arrangements as may be specified in the direction as respects the principal function and such other function as is mentioned in subsection (2) below.

(2) The other function is any other function of the authority or body which the Scottish Ministers consider would, if it were exercised in accordance with the arrangements in question, be likely to contribute to an improvement in the exercise of the principal function.

Status: This is the original version (as it was originally enacted).

- (3) Where the Scottish Ministers direct a local authority or NHS body to enter into arrangements mentioned in paragraph (b)(ii) of subsection (1) above, then if in the opinion of the Ministers (formed after consultation with the local authority or NHS body in question) it would be appropriate to do so, they may also direct—
- (a) the local authority to make under this section, on such conditions as are prescribed under paragraph (b) of section 14 of this Act and in accordance with the direction, such payments to an NHS body as are mentioned in that section, in connection with the performance by the NHS body of any function prescribed under paragraph (a)(ii) of subsection (1) above, if in the opinion of the Ministers, to make those payments would be likely to lead to an improvement in the way in which the local authority’s functions are exercised; or
 - (b) the NHS body to make under this section, on such conditions as are prescribed under subsection (1) of section 13 of this Act and in accordance with the direction, such payments to a local authority as are mentioned in that subsection, in connection with the performance by the local authority of any function prescribed under paragraph (a)(i) of subsection (1) above which, in the opinion of the Ministers, satisfies any of the requirements mentioned in paragraphs (a) to (c) of subsection (1) of that section.
- (4) In this section, any reference to an improvement in the way in which functions are exercised is to be construed in the same way as in section 15 of this Act.
- (5) The Scottish Ministers, when giving a direction under subsection (1) above (a “principal direction”), may give a direction under this subsection (a “secondary direction”) to such other local authority or NHS body as they consider appropriate, such secondary direction being for or in connection with securing that full effect is given to the principal direction.
- (6) Arrangements entered into in pursuance of a direction under this section must comply with such requirements, which in the case of arrangements mentioned in subsection (1) of section 15 of this Act are to be additional to those contained in regulations under subsection (4) of that section, as may be specified in that direction.