

# National Care Service (Scotland) Bill

[AS INTRODUCED]

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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

## [AS INTRODUCED]

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 OF THE NATIONAL CARE SERVICE

#### *Principles*

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

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 that prevent or delay the development of care needs and reduce care needs that already exist,
- (d) services provided by the National Care Service are to be designed collaboratively with the people to whom they are provided and their carers,
- (e) opportunities are to be sought to continuously improve the services provided by the National Care Service in ways which—
  - (i) promote the dignity of the individual, and
  - (ii) advance equality and non-discrimination,

(f) the National Care Service, and those providing services on its behalf, are to communicate with people in an inclusive way, which means ensuring that individuals who have difficulty communicating (in relation to speech, language or otherwise) 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.

### *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 (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**

10 (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.

15 (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**

20 (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—

25 (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),

30 (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.

35 (4) The Scottish Ministers’ strategic plan may include any other information they consider appropriate.

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- (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

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

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

- 5 (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—
- 10 (a) a summary of the rights and responsibilities in relation to 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),
  - 15 (iii) any other category of person whose rights and responsibilities in relation to 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 the charter summarises.
- 20 (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
  - 25 (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,
  - 30 (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.
- (2) The Scottish Ministers must lay before the Scottish Parliament a copy of—
- (a) the first version of the charter, and
  - 35 (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.
- 5 (4) Following a review of the charter, the Scottish Ministers may make any changes to it that they consider appropriate.
- (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  
10 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.

15

### *Advocacy*

## **13 Independent advocacy**

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

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### *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
  - 25 (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.
- 30 (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.

## **15 Dealing with complaints**

35

- (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.
- 5 (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.
- 10 (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
  - 15 (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**

- 20 (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**

- 25 (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.
- 30 (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.

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

- (1) The Scottish Ministers may direct that a function of a care board is to be performed by another person if the Ministers are of the opinion that—
- (a) an emergency exists, and
  - (b) having a person other than the 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).
- (3) A person directed under subsection (1) to perform a function must comply with the direction.
- (4) The Scottish Ministers—
- (a) may revoke a direction under subsection (1) at any time, and
  - (b) must do so as soon as practicable after they form 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 given notice to that effect to—
- (a) the care 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.

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

- (1) The Scottish Ministers may direct that a function of a care board is to be performed by another person if the Ministers are of the opinion that the 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 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.
- (3) A person directed under subsection (1) to perform a function must comply with the direction.
- (4) Where a care board's function is performed by another person in accordance with a direction under subsection (1)—
- (a) the 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 (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 may revoke a direction under subsection (1) at any time.

(7) A direction under subsection (1) is revoked when the Scottish Ministers have given notice to that effect to—

10 (a) the care 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.

*Powers to intervene with contractors*

**20 Emergency intervention order**

15 (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,

25 (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,

30 (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.

35 (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,

5 “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—

10 (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,

15 (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

20 (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—

25 (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

30 (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

#### **23 Research**

- 5 (1) The Scottish Ministers and care boards 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.
- 10 (3) A person giving financial assistance under this section may attach conditions to it (including conditions as to repayment and the payment of interest).

#### **24 Training**

- (1) The Scottish Ministers and care boards may—
- 15 (a) provide training courses for individuals to equip them with knowledge and skills relevant to providing services on behalf of 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  
20 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.
- 25 (2) A person giving a grant under this section may attach conditions to it (including conditions as to repayment and the payment of interest).

#### **25 Support for other activities**

- (1) The Scottish Ministers and care boards 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.
- 30 (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.
- 35 (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.

## **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**

- 5 (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.
- 10 (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.
- 15 (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.**

- 20 (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,
- 25 (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,
- 30 (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—
- 35 (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.

5 (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**

10 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

15 (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.

20 (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.

25 (4) References (however expressed) to providing a service include securing its provision.

## PART 2

### HEALTH AND SOCIAL CARE INFORMATION

#### **36 Care records**

30 (1) The Scottish Ministers may by regulations provide for a scheme that allows information to be shared in order that 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—

35 (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,
- (c) 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.

### **37 Information standard**

(1) An information standard is a document, produced by the Scottish Ministers, setting out how certain information is to be processed.

(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,
- (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.

- (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.

5

### 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).
- 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.”.
- 15 (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,”,
- 20 (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—
- 30 “(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.”.
- 35 (5) In section 15(1) (content of young carer statement)—
- (a) after paragraph (i) insert—

- 5 “(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.
- 10 (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).”
- 15 (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—
- 20 “*(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”,
- 25 (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)—
- 30 (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—
- 35 “*(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.”.

### *Regulation of social services*

#### **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.”.

5     **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**

- 10
- (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

15     **44     Interpretation**

In this Act—

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

20     “special health board” means a board constituted under section 2(1)(b) of that Act.

**45     Ancillary provision**

25     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—
  - 30     (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: sections 4, 13, 15, 27, 28, 29 and 36.
- (4) Regulations under any of the following provisions are subject to the negative procedure—
- 5           (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.
- 10       (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**

- 15       (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 (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.

10 *Authority to perform functions*

6 (1) A care board may authorise any of its—

- (a) members,
- (b) committees,
- (c) sub-committees, or
- 15 (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.

20 *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,
- 25 (c) the disqualification of a member after appointment.

**PART 4**

ACCOUNTABILITY

*Accounts and audit*

8 A care board must—

- 30 (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.

5

**PART 5**

**MEMBERS**

*Board composition*

- 10 A care board is to consist of—
- (a) a member to chair it, and
  - 10 (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
  - 15 (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
- 20 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,
  - 25 (b) require appointments to be made so that a board includes a member who fulfils criteria specified in the regulations,
  - (c) 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—
- 30 (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
- 35 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.

5 *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.
- 10 (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.
- 15 (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,
  - 20 (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)(c) only if they consider that the member is—
- 25 (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—
- 30 (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.
- 35 (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.
- 5 (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*

- 10 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.
- 15 (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.
- 20 (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*

- 25 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*

- 30 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.

5 (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.

10 (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.

15 (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*

20 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.

25 (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—

30 “(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*

(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*

(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”.

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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  
 5 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  
 10 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.
- 20 (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”.

25 *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**

- 30 (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.”.

# **National Care Service (Scotland) Bill**

[AS INTRODUCED]

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.

Introduced by: Humza Yousaf  
On: 20 June 2022  
Bill type: Government Bill

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