

2014 No. 283

PUBLIC HEALTH

SOCIAL CARE

**The Public Bodies (Joint Working) (Prescribed Consultees)
(Scotland) Regulations 2014**

Made - - - - 28th October 2014

Laid before the Scottish Parliament 30th October 2014

Coming into force - - 28th November 2014

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 6(2)(a), 33(6), 41(4), 46(4)(a) and 69(1)(b) of the Public Bodies (Joint Working) (Scotland) Act 2014(a) and all other powers enabling them to do so.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Public Bodies (Joint Working) (Prescribed Consultees) (Scotland) Regulations 2014 and come into force on 28th November 2014.

(2) In these Regulations—

“the Act” means the Public Bodies (Joint Working) (Scotland) Act 2014;

“third sector” includes representative groups, interest groups, social enterprises and community organisations; and

“standard consultees” means the groups of persons listed in the Schedule.

Prescribed groups of persons to be consulted – preparation of integration scheme or revised integration scheme

2.—(1) The groups of persons prescribed for the purposes of sections 6(2)(a) and 46(4)(a) of the Act (consultation on integration scheme and revised integration scheme) are—

(a) the standard consultees, subject to paragraph (2); and

(b) other local authorities operating within the area of the Health Board preparing the integration scheme or the revised integration scheme.

(2) For the purposes of paragraph (1)(a), the standard consultees must—

(a) in the case of users of health care or social care—

(i) reside within the area of the local authority preparing the integration scheme or the revised integration scheme; and

(a) 2014 asp 9. Section 68(1) contains a definition of “prescribed” relevant to the exercise of the powers under which these Regulations are made.

- (ii) use services provided in pursuance of functions set out in the schedule to the Act or functions prescribed for the purposes of section 1(6) of the Act (Health Board functions which may be delegated);
- (b) in the case of carers of users of health care or social care, care for a person to whom paragraph (2)(a) applies;
- (c) in the case of non-commercial providers of social housing and third sector bodies carrying out activities related to health or social care, operate within the area of the local authority preparing the integration scheme or the revised integration scheme; and
- (d) in any other case—
 - (i) operate within the area of the local authority preparing the integration scheme or the revised integration scheme; and
 - (ii) provide, or be engaged in relation to, services provided in pursuance of functions set out in the schedule to the Act or functions prescribed for the purposes of section 1(6) of the Act.

Prescribed groups of persons to be consulted – preparation of strategic plan

3. Subject to regulation 5, the groups of persons prescribed for the purposes of section 33(6) of the Act (preparation of strategic plan) are the standard consultees.

Prescribed groups of persons to be consulted – decision affecting service provision in a locality

4. Subject to regulation 5, the groups of persons prescribed for the purposes of section 41(4) of the Act (consultation on a decision) are—

- (a) the standard consultees; and
- (b) residents of the locality,

but only insofar as they are likely to have an interest in the decision to which section 41(1) of the Act (decision affecting service provision in a locality) applies.

Regulations 3 and 4 – further provision in relation to standard consultees

5. For the purposes of regulations 3 and 4, the standard consultees must—

- (a) in the case of users of health care or social care, reside within the area of the local authority which prepared the integration scheme and use services provided in pursuance of integration functions;
- (b) in the case of carers of users of health care or social care, care for a person to whom paragraph (a) applies;
- (c) in the case of non-commercial providers of social housing and third sector bodies carrying out activities related to health or social care, operate within the area of the local authority which prepared the integration scheme; and
- (d) in any other case—
 - (i) operate within the area of the local authority which prepared the integration scheme; and
 - (ii) provide, or be engaged in relation to, services provided in pursuance of integration functions.

ALEX NEIL

A member of the Scottish Government

St Andrew's House,
Edinburgh
28th October 2014

SCHEDULE
Standard Consultees

Regulation 1(2)

Standard Consultees

Health professionals

Users of health care

Carers of users of health care

Commercial providers of health care

Non-commercial providers of health care

Social care professionals

Users of social care

Carers of users of social care

Commercial providers of social care

Non-commercial providers of social care

Staff of the Health Board and local authority who are not health professionals or social care professionals

Non-commercial providers of social housing

Third sector bodies carrying out activities related to health or social care

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe groups of persons who must be consulted on integration schemes, strategic plans, or significant decisions in a locality for the purposes of sections 6(2)(a), 33(6), 41(4), and 46(4)(a) of the Public Bodies (Joint Working) (Scotland) Act 2014 (“the Act”). The Schedule lists ‘standard consultees’, being groups of persons who are prescribed in respect of each of the purposes covered by the Regulations.

Regulation 2 prescribes the groups of persons who appear to the Scottish Ministers to have an interest for the purposes of sections 6(2)(a) and 46(4)(a) of the Act. These groups of persons must be jointly consulted by a local authority and Health Board when preparing or revising an integration scheme. By virtue of regulation 2(2), the groups of persons listed in the Schedule must be consulted to the extent that they use, care for a person who uses or provide or are engaged in relation to services provided under any statutory function which a local authority or Health Board is permitted to include in joint working arrangements made under the Act.

Regulation 3 prescribes the groups of persons who appear to the Scottish Ministers to have an interest for the purposes of preparing a strategic plan.

Regulation 4 prescribes the groups of persons who appear to the Scottish Ministers to have an interest for the purposes of a decision affecting service provision in a locality. The groups of persons are only prescribed insofar as they are likely to have an interest in the particular decision being taken.

Regulation 5 sets out the extent to which the persons listed in the Schedule are prescribed for the purposes of regulations 3 and 4. Where consultation is carried out under these sections, the groups of persons listed in the schedule must be consulted if they use, care for a person who uses, or provide or are engaged in relation to services provided under the statutory functions which the integration scheme prepared for the local authority area provides are to be included in the joint working arrangements prepared under the Act.

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£4.25

S2014102916 11/2014 19585

<http://www.legislation.gov.uk/id/ssi/2014/283>

ISBN 978-0-11-102473-7



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