EXECUTIVE NOTE

THE COMMUNITY CARE (JOINT WORKING ETC.) (SCOTLAND) AMENDMENT REGULATIONS 2012

SSI 2012/65

The above Regulations were made in exercise of the powers conferred by sections 13(1), 14, 15(1), (2) and (4) and 23(4) of the Community Care and Health (Scotland) Act 2002(**a**) and all other powers enabling them to do so.

Policy objectives

The Community Care and Health (Scotland) Act 2002 ("the 2002 Act") received Royal assent on 12th March 2002. The Act provided for new, closer, joint working between NHS Scotland and Local Authorities, enabling them to develop more effective, seamless services to suit local circumstances while retaining flexibility in how they jointly manage and resource services.

These Regulations amend the Community Care (Joint Working etc.) (Scotland) Regulations 2002 (SSI 2002/533) ("the Joint Working Regulations") and the purpose of the amendment to the Regulations is twofold.

Firstly to specify new functions which may be delegated between NHS bodies and local authorities for the purpose of joint working.

Secondly, to make some adjustments to the accounting requirements for arrangements under sections 13 to 15 of the of the 2002 Act to reflect developments in accounting and reporting guidance since the 2002 Act came into force.

Specifically, regulation 2 makes the following amendments to the 2002 Regulations:

(a) paragraphs (b) and (c) remove the necessity for a body to set up a system of monitoring and to provide audited accounts for payments under sections 13 or 14 of the 2002 Act;

(b) paragraph (f) provides the requirements where a payment is being made by virtue of an arrangement under section 15(1)(b) of the 2002 Act where a pooled fund is not being established under section 15(1)(c) of that Act;

(c) paragraph (g) simplifies the requirements for a pooled fund established under section 15(1)(c) of the 2002 Act;

(d) paragraph (h) imposes a duty for the written agreement to include terms regarding the financial management of payments made under the arrangement and for the specification of a lead officer from each party to the arrangement who is responsible for ensuring the aims and outcomes of the arrangement are achieved;

(e) paragraphs (i) and (j) make minor consequential amendments to the titles of Schedule 2 and 3 to the 2002 Regulations to account for the insertion of the new Schedules. Schedules 2 and 3 of the 2002 Regulations previously prescribed functions for section 15(2) of the 2002 Act but those functions are now prescribed in the new Schedules inserted by these Regulations;

(**a**) 2002 asp 5. Section 22 defines "prescribed" as meaning prescribed in regulations made by the Scottish Ministers.

(f) paragraph (k) inserts the new Schedules 5 and 6 into the 2002 Regulations (which are now cross-referred to in regulations 4 and 5 of the 2002 Regulations by virtue of paragraphs (c) and (d)).

New Schedule 5 prescribes the functions of a local authority which may be delegated to an NHS body and also prescribes those functions which a local authority may use in conjunction with functions which have been delegated to an authority by an NHS body. Paragraph 1 of that Schedule sets out functions which may be used for both of those purposes, paragraph 2 only the former and paragraph 2 only the latter.

Schedule 6 makes parallel provisions for NHS bodies.

These changes serve both to refresh the list of functions which are available for delegation but also to make changes in light of the proposed arrangement between Highland Council and Highland Health Board

Consultation
Consultation on the draft legislation for the 2002 Act took place between April and September 2001. Both Highland Council and Highland Health Board have been consulted widely in the preparation of these Regulations. As these matters are to be reviewed in the forthcoming legislation on Adult Health and Social Care Integration further consultation was not considered necessary.

Impact Assessments
There are no equality impact issues.

Financial Effects
The instrument has no direct financial effects on the Scottish Government, local government, or on business.

Scottish Government
Integration and Service Development Division
Directorate for Health and Social Care Integration