EXECUTIVE NOTE

THE HEALTH BOARD ELECTIONS (SCOTLAND) AMENDMENT REGULATIONS 2010
SSI 2010/58

The above instrument is proposed to be made in exercise of the powers conferred by section 2(10A) and 105(7) of, and by paragraphs 12(1), (2) and (3) of Schedule 1A to the National Heath Service (Scotland) Act 1978 ("the 1978 Act"). This instrument is subject to affirmative resolution procedure.

Policy Objectives

During the Subordinate Legislation Committee's consideration of the Health Board Elections (Scotland) Regulations 2009 (SSI 2009/352) (the principal Regulations), they raised an issue regarding the lack of eligibility criteria where a voter was registered to vote in more than one Health Board area. The Health and Sport Committee shared those concerns and additionally requested that the Government considered introducing an offence where an individual sought to vote more than once or in more than one pilot area.

In accordance with an undertaking to the Health and Sport Committee, these Regulations insert provisions to ensure that it is clear on the face of the principal Regulations that an individual may not vote in more than one Health Board area or more than once in the same Health Board area. Additionally, as a result of these Regulations, if an individual sought to do so, they would be committing an offence by virtue of section 61 of the Representation of the People Act 1983 (c.2) (the 1983 Act) as applied to Health Board elections by these Regulations.

In addition two further provisions from the 1983 Act are applied to Health Board elections. The 1983 Act contains a number of different offences, many of which are inappropriate, due to the differing electoral procedures, for Health Board elections, and those which are applied to these pilot elections relate, principally, to voting. The addition of these offences was considered appropriate in light of comments received during the development of these Regulations.

The additional offences applied are:

- Section 60 (personation)
- Section 65 (Tampering with nomination or ballot papers)

Consultation

In developing these Regulations views were sought from the Scottish Government's Justice Directorate, who maintain an overview of offences contained in law. Additionally, input was sought from the Chair of the Scottish Electoral Registration Officers Group as well as the Electoral Registration Officers and Returning Officers in the pilot areas.

There was a range of views on the introduction of offences to the pilot elections and having considered those views and the concerns of Parliament, the Government believes that these Regulations provide a proportionate solution to those concerns.

While these Regulations have applied specific offences to these elections, the Government will continue to work with local electoral and health officials in the pilot areas to ensure that the publicity and information supporting the elections will minimise the risk of someone voting more than once.

Evaluation

Due to the pilot nature of these elections, the Government will ensure that the Independent Evaluation required by Section 5 of the Health Boards (Membership and Elections) (Scotland) Act 2009, will fully consider the electoral process and identify any areas for improvement. Registration and Returning Officers will be fully involved in this work and the Government will also seek advice from the Electoral Commission on the process of evaluation.

Financial Effects

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

Health Delivery Directorate
December 2009