

# Constructing Coordinating Machinery Within Devolved Competence

## *The Community Wealth Building (Scotland) Act 2026*

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The Community Wealth Building (Scotland) Act 2026 received Royal Assent on 25 March 2026, having been passed by the Scottish Parliament on 10 February. Advocates for the Act describe it as the first national legislation of its kind anywhere in the world. That claim concerns the policy model. The interest of the Act for anyone thinking about how devolved institutions develop lies elsewhere, in what the Act shows a devolved legislature is able to construct within its existing competence, and in the gap between what has been legislated and what has yet to operate.

This note describes that construction. It does not argue that the policy is correct, that other legislatures should follow it, or that it tells anyone in Wales what to do. It holds throughout to a single distinction that the Act itself makes unusually clear on its face: the difference between the capacity to legislate a framework and the capacity to operate one. Scotland has demonstrated the first. The second has not yet begun.

Read narrowly, the Act is a piece of economic-development legislation. Read structurally, it is an instance of a devolved legislature using ordinary legislation, within uncontested competence, to construct coordinating machinery across a large part of its public sector. The significance examined here lies in that second reading. The policy objective matters less, for present purposes, than the institutional form through which it is pursued, and the descriptive sections that follow are best read not as an explanation of the Act but as an account of what the Act is evidence of. Because that form is general, the note also asks, as a question of competence rather than of intention, where else it could be constructed, and what its construction would place on the record.

### **The Act as enacted**

The structure of the Act is straightforward to state. It places three kinds of duty into Scottish law. It requires the Scottish Ministers to prepare and publish a community wealth building statement setting out the measures the Government is taking or intends to take. It requires each local authority, working jointly with a set of named public bodies, to prepare, publish and implement a community wealth building action plan for its area. And it requires a further list of public bodies to have due regard to ministerial guidance on community wealth building when they develop their corporate plans and delivery strategies. Around those three duties sit the familiar machinery of review, revision and periodic reporting to the Scottish Parliament.

The single most important fact about the Act, for present purposes, is one of timing rather than content. The Act is largely prospective. Only four sections came into force the day after Royal Assent: the interpretation section, the ancillary-provision power, the commencement section itself, and the short title. Every substantive duty, the ministerial statement, the local authority action plans, the partnership arrangements, the guidance, and the due-regard

obligation, comes into force only on a day that the Scottish Ministers may later appoint by regulations. As enacted, and as the legislation continues to record at the time of writing, the operative provisions are not in force.

This is not a defect in the Act, nor an unusual way to commence legislation. It is, however, the fact that disciplines everything that can honestly be said about what Scotland has so far achieved. What exists is a complete and detailed statutory framework. What does not yet exist is a single published statement, a single action plan, a single partnership in operation, or a single line of guidance issued under the Act. The framework has been built. It has not been switched on.

## **The institutional mechanism**

What has been built repays close description, because its constitutional interest lies in the specifics rather than in the general aim. Three features stand out.

The first is the statutory partnership. The Act does not simply place a duty on local authorities. It requires each local authority to act jointly, in preparing its action plan, with a defined set of other public bodies operating in its area: the relevant regional college and regional strategic body, the relevant health board, Scottish Enterprise, South of Scotland Enterprise or Highlands and Islands Enterprise as the geography dictates, Skills Development Scotland, and the relevant regional transport partnership. The Act gives this grouping a name, the community wealth building partnership, and a defined membership, and then assigns duties to the partnership as such. These are bodies that ordinarily answer up separate lines of accountability, in further and higher education, health, economic development, skills and transport. The Act requires them to act together on a shared plan for a shared territory. That is a use of primary legislation to reorganise how distinct public institutions coordinate, rather than to create a new body or transfer a function.

The second feature is the presence of measurable commitments on the face of the statute. Each action plan must set an indicative target for the percentage of the partners' total public-contract expenditure that is to go to local economic operators, and each partnership must report, every five years, on the percentage actually achieved. The Act also lists the indicators a partnership may use to assess its own progress, and that list includes the proportion of the partners' pension funds invested locally and regionally. A procurement-localisation target and a reference to local pension-fund investment are specific, trackable mechanisms, and finding them written into primary legislation rather than left to policy is part of what makes the Act more than a statement of intent.

The third feature is reach. Beyond the partnership duty, the Act lists twenty-one further public bodies, set out in a schedule, that must have due regard to the Ministers' guidance when developing their corporate plans. The list runs across culture, environment, justice, infrastructure, finance, tourism and health: Creative Scotland, the Scottish Environment Protection Agency, the Scottish Courts and Tribunals Service, Crown Estate Scotland, the Scottish National Investment Bank, Scottish Water, VisitScotland and the chief constable of Police Scotland among them. A due-regard duty is a light obligation; it requires a body to take the guidance into account, not to follow it. But the choice to extend even a light obligation across so wide a range of national institutions indicates an intention to orient a substantial part of the Scottish public sector toward a common economic framework.

Two further details deserve note, because they widen the picture in ways the broad descrip-

tion can miss. The Act asks partnerships, in preparing their plans, to consider how the use or disposal of common good land and assets might serve its aims, which extends the framework from the coordination of spending into the orientation of publicly held assets. And the substantive lists in the Act, the measures, the membership of the partnership, the schedule of specified bodies, are all amendable by Scottish Ministers through regulations subject to parliamentary approval. The framework is therefore not a fixed settlement but adjustable machinery, designed to be extended or revised without fresh primary legislation.

## **What kind of capability is demonstrated**

It is worth being exact about what the foregoing shows, because the temptation to claim slightly too much is precisely where an analysis of this kind goes wrong.

What the Act demonstrates is the capacity to construct, through primary legislation and within existing devolved competence, a framework that would coordinate multiple public institutions toward territorially directed economic activity. The demonstrated capability is one of legislative construction: the drafting and enactment of cross-institutional machinery, complete with defined membership, measurable targets, reporting cycles, guidance powers and a mechanism for its own amendment. That is a real and specific competence, and it is fully evidenced by the Act as it stands.

What the Act does not yet demonstrate is that the machinery works. No partnership has yet been convened under it. No plan has been written, no target set, no expenditure redirected, no report laid. The bodies named in the Act have not yet had to reconcile their separate accountabilities in practice, and the ordinary frictions of joint working across health, education, transport and economic development have not yet been tested against the duty. The qualifier the Act itself attaches to the implementation duty, that partners must implement their plans so far as reasonably practicable, is a candid acknowledgement that operation is a different and harder thing than enactment. The distinction is not a quibble. A framework that coordinates on paper and a framework that coordinates in fact are separated by exactly the work that has not yet been done.

Holding that line matters for the description to remain accurate. Scotland has shown it can build the machine. Whether the machine runs, and runs well, is a question that the commencement of the operative provisions will begin to answer and that the first five-year reporting cycle will answer more fully. Until then, the demonstrated capability is design, not delivery.

## **A reusable form of institutional action**

Stated at the level of the particular Act, the foregoing is a description of one Scottish statute. Stated more generally, it is a description of a form of institutional action, and it is at that level that the Act becomes interesting beyond its own subject matter.

The form is this. A devolved legislature uses ordinary legislation, within competence that is not contested, to construct machinery that coordinates a wide field of public institutions toward a territorially defined objective, and it does so without asserting any constitutional position or seeking any constitutional change. Each element of that description is plainly true of the Community Wealth Building (Scotland) Act 2026, and none of it depends on the machinery yet operating. The legislation is ordinary; the competence is uncontested; the coordination reaches across local government, health, education, skills, transport, economic development

and, through the due-regard duty, a further twenty-one national bodies; the objective is territorial; and nothing in the Act speaks to the constitution at all. What the Act exhibits, abstracted from its policy content, is the capacity of a devolved legislature to design and direct complex institutional machinery across a large part of its public sector using only the powers it already holds.

That capacity is constitutionally interesting in itself, and the reason is worth stating precisely, because it is easy to reach for a stronger claim than the evidence supports. The interest does not lie in any suggestion that constructing such machinery leads on to greater competence, or that institutional construction matures into constitutional advancement. That would be a developmental claim, predictive and unproven, and it is not the claim being made. The interest lies in something present and observable: that enacted institutional construction of this scope is itself evidence of institutional seriousness, evidence that resides in the act of construction rather than in any subsequent operation or any constitutional argument made alongside it. A legislature that can design machinery of this complexity, and enact it through the ordinary stages, has demonstrated something about itself in the doing, whatever becomes of the machinery afterward.

It is a demonstration of a particular kind: enacted institutional construction rather than constitutional claim-making. The two are easily confused, because both can be read as statements about an institution's capacity. But they are different in register and in evidential standing. Constitutional claim-making asserts what an institution should be able to do; enacted institutional construction shows what it has in fact done, within the competence it already has, on the public record of its own legislation. The second needs no permission and makes no demand. It is simply there, in the statute book, available to be read.

## **The same form under Welsh competence**

Because the form is general, it is reasonable to ask a descriptive question about where else it could be constructed, and the question is one of competence rather than intention. The Senedd legislates under a reserved-powers model, established by the Wales Act 2017 and in force since April 2018, under which it may legislate on any matter not reserved to the UK Parliament. Across most of the domains the Scottish Act coordinates, the competence is present: local government, economic development, planning, culture, the Welsh language, housing, social welfare, and substantial parts of health, education and skills are devolved. Public procurement, the central lever of the community wealth building model, is already the subject of Welsh legislation in the Social Partnership and Public Procurement (Wales) Act 2023. A legislature whose competence is distributed in that way is, in principle, able to construct coordinating machinery of a broadly similar type through ordinary legislation.

The competence is not identical to Scotland's, and the differences are worth stating precisely, because they bear on what comparable construction could and could not reach. The Senedd has no competence over justice and policing, so a Welsh equivalent could not place the analogue of a chief constable under a due-regard duty as the Scottish schedule does. Certain matters the Scottish Act engages would meet sharper limits in Wales. Parts of road and rail transport, and electricity, are reserved under Schedule 7A, which would constrain how far a Welsh framework could reach into transport coordination and community-energy activity. And the general restrictions in Schedule 7B, on modifying private law other than for a devolved purpose, and on conferring functions on reserved authorities without UK consent, would shape the drafting. The conclusion this supports is narrow and factual: the form is available to the Senedd across a wide field of its devolved competence, though the field is shaped differently

from Scotland's and is in some respects narrower.

What such construction would amount to, were it undertaken, can be stated in the same disciplined register the rest of this note uses, and it separates into three observable consequences. The first is administrative: new coordinating machinery would exist, where none had before. The second is institutional: the legislature would have demonstrated the capacity to design and direct machinery across several devolved domains at once, which is a more demanding exercise than legislating within a single domain. The third is constitutional, and it is the consequence that matters here: the public record would then contain evidence of enacted institutional construction of that scope, rather than only of constitutional claim-making about what the institution might be capable of. None of these consequences is predictive, none depends on the machinery operating, and none asserts that anything follows from them. They are simply what the act of construction would, in itself, place on the record.

### **The limit of the observation**

What follows from that demonstration is not for this note to say, and the reluctance is deliberate rather than evasive. A reader will draw conclusions about what the existence of such a framework indicates, and about whether comparable construction is available elsewhere within comparable competence. The note stops short of those conclusions. The analytical observation, and the limit of it, is that institutional capability of this specific kind, the capacity to legislate coordinating machinery, is itself a fact about an institution, independent of whether one agrees with the policy the machinery is meant to serve and independent of whether the machinery, once operating, succeeds.

### **A note on method**

This note has tried to do one thing: describe, from the text of the Act as enacted, what has been legislated and what that legislative act demonstrates, while holding firmly to the distinction between a framework constructed and a framework in operation.

It is descriptive, not prescriptive. It makes no recommendation, to Wales or to anyone else, and it should not be read as making one. It treats the constitutional interest of the Act as a matter of accurate description rather than asserted meaning, on the view that a reader is better served by a precise account of the mechanism than by being told what to conclude from it. And it is written in the present tense, about an Act whose operative provisions are not yet in force, which is the only tense the evidence currently licenses. If and when those provisions commence, and the first statements, plans and reports appear, there will be operational evidence to assess, and that assessment will be a separate task. What can be said now is bounded by what has so far been done, and what has so far been done is the construction, not the running, of the framework.