

## EXECUTIVE NOTE

### THE PUBLIC SERVICES REFORM (SCOTLAND) ACT 2010 (ANCILLARY PROVISIONS) ORDER 2010 SSI 2010/ 322

The above instrument is made in exercise of powers conferred on the Scottish Ministers by sections 132 and 133(1) of the Public Services Reform (Scotland) Act 2010 ('the Order'). It is subject to the negative resolution procedure.

The instrument makes ancillary provision in consequence of the commencement of specific provisions of the Public Services Reform (Scotland) Act 2010 ('the Act').

#### **Policy objectives**

The Order makes ancillary provision in relation to sections 1, 31 and 118 of the Act which will come into force on 1 October 2010 by separate commencement order. These ancillary provisions will come into force at the same time. Articles 3 to 6 are considered expedient for the purposes of sections 31 and 118, and Article 7 necessary in consequence of section 1.

**Article 3** provides that the requirements in section 31(1) and (3) of the Act do not apply (a) to expenditure incurred or payments made before 1st October 2010; and (b) to expenditure or payments arising out of a contractual obligation entered into before 1st October 2010, the disclosure of which would breach an express term of the contract relating to that obligation.

**Article 4** disapplies certain amendments made by section 118 of the Act to the Public Finance and Accountability (Scotland) Act 2000 ('the 2000 Act') thereby enabling the existing 'other' members of Audit Scotland appointed jointly by the Auditor General and the Chairman of the Accounts Commission under section 10(2)(c) of the 2000 Act to continue to hold office in accordance with the terms of those appointments.

**Article 5** disapplies certain amendments made by section 118 of the Act to the 2000 Act thereby enabling any member of the staff of Audit Scotland appointed as one of the 'other' members of Audit Scotland under section 10(2)(c) of the 2000 Act to continue to hold office in accordance with the terms of that appointment until another person is appointed.

**Article 6** disapplies certain amendments made by section 118 of the Act to the 2000 Act thereby enabling the existing Auditor Scotland for Scotland to continue to hold office in accordance with the terms of that appointment.

**Article 7 and 8** correct an error in the Public Services Reform (Scotland) Act 2010 (Consequential Modifications) Order 2010 and replace a remaining reference to the Deer Commission for Scotland in the Rural Development Contracts (Rural Priorities) (Scotland) Regulations 2008 with Scottish Natural Heritage in consequence of section 1 of the Act.

#### **Regulatory impact**

No regulatory impact assessment is required. The changes in the order are technical and have no impact on business.

## **Consultation**

The Scottish Commission for Public Audit was consulted on the provisions in articles 4 and 5 relating to the 'other' members of Audit Scotland. Audit Scotland was also consulted in relation to these transitional arrangements. The Scottish Parliament Corporate Body was separately consulted in relation to the transitional arrangements relating to the Auditor General for Scotland. No consultation was undertaken on the other provisions of the Order.

## **Financial effects**

These ancillary provisions are not expected to have any significant financial effect.

Public Bodies Directorate  
September 2010