

EXECUTIVE NOTE

THE PUBLIC SERVICES REFORM (SCOTLAND) ACT 2010 (HEALTH AND SOCIAL CARE) SAVINGS AND TRANSITIONAL PROVISIONS (NO. 2) ORDER 2011

SSI 2011/169

The above instrument was made in exercise of the powers conferred by sections 132 and 133(1)(c) of the Public Services Reform (Scotland) Act 2010 “the 2010 Act”. The instrument is subject to negative resolution procedure.

Policy Objectives

The Public Services Reform (Scotland) Act 2010 (Health and Social Care) Savings and Transitional Provisions Order (SSI 2011/121) makes various savings and transitional provisions in light of the Public Services Reform (Scotland) Act 2001 relating to the transfer of registrations with the Scottish Commission for the Regulation of Care under the 2001 Act to Social Care and Social Work Improvement Scotland (SCSWIS) for care services and to Healthcare Improvement Scotland (HIS) for independent healthcare services.

The purpose of the instrument is to make further provisions by prescribing the manner in which appeals under section 17(3) of the 2001 Act which are on-going on 31 March 2011 are handled on the transition of the system of registration for care services to the 2010 Act and for independent healthcare services under the National Health Service (Scotland) Act 1978 (the “NHS Act”) (as amended by the 2010 Act).

Article 19 of SSI 2011/121 makes provision for appeals where notice has been given under s17(3) of the 2001 Act in the 14 day period before the 2010 Act comes into force.

This order provides that where an appeal under s17(3) of the 2001 Act has commenced at any time, but has not been determined by 31 March 2011 that appeal will continue to be heard under the provisions of Part 1 of the 2001 Act which are saved for this purpose. This will ensure that any on-going appeals are completed under the terms of the original legislation under which the notice was first applied to the service.

If the registration of the service is not cancelled at the conclusion of the appeal proceedings then the service will be deemed to be registered with SCSWIS or HIS as appropriate.

Consultation

There was no statutory requirement to consult on this Order.

Financial effects

The Order does not have any new financial effects that were not anticipated when the 2010 Act was enacted. The purpose of this Order is to make transitional provision for the application of provisions of the 2010 Act and to set out circumstances in which existing legislation will continue to apply after the coming into force of the 2010 Act. The Order has been prepared to ensure the smoothest possible transition from the old to the new system. It therefore has no additional financial impact on the Scottish Executive, local government or on business. As a result a Regulatory Impact Assessment is not required.

These consequential modifications are not expected to have any financial effects in themselves. The financial effects of the creation of the new bodies and the dissolutions which have necessitated this order were covered in the [Financial Memorandum](#) accompanying the Bill, starting at page 56.

Scottish Government
Directorate of Health and Social Care Integration
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