

EXECUTIVE NOTE

THE INTERPRETATION AND LEGISLATIVE REFORM (SCOTLAND) ACT 2010 (COMMENCEMENT) ORDER 2011 (S.S.I. 2011/4 (C.1))

The above instrument was made in exercise of the powers conferred by section 58(3) of the Interpretation and Legislative Reform (Scotland) Act 2010 (“the 2010 Act”). There is no legal requirement for the instrument to be laid before the Parliament, however the Government considers it appropriate to prepare this note to clarify its policy in relation to the commencement of the 2010 Act.

Policy Objectives

The principal purpose of the instrument is to commence, on 6 April 2011, Parts 2, 4, 5 and, insofar as not already in force, Part 6 of the 2010 Act. The 2010 Act’s other provisions came into force on 4th June 2010.

Part 2 of the 2010 Act makes provision about the Scottish Parliament’s scrutiny of Scottish statutory instruments and statutory instruments. Part 4 sets out the scrutiny procedures applicable to subordinate legislation that is subject to special parliamentary procedure in the Scottish Parliament. Part 5 defines what is required where legislation provides for a document (other than a Scottish statutory instrument or a statutory instrument) to be laid before the Scottish Parliament. These matters were previously governed by the transitional orders (S.I. 1999/1096 and S.I. 1999/1593). As the 2010 Act will deal with those matters from 6 April 2011 onwards, the transitional orders will be revoked on 6 April 2011 by Part 6 of the 2010 Act.

The 6 April 2011 commencement date, falling shortly after the dissolution of the Parliament on 22 March 2011, was chosen as a point offering the smoothest possible transition from the transitional orders’ regime to the 2010 Act’s regime, and one which minimises scope for any negative impacts on the business and operation of Government and Parliament. The dissolution period provides a natural - and clearly defined - break in the making of legislation.

The instrument also provides for certain provisions of the 2010 Act to come into force on 26 January 2011, but only in respect of instruments made under the 2010 Act. This is necessary to enable further instruments to be made under the 2010 Act before, and be brought into force on, 6 April 2011. In particular, section 27 of the 2010 Act needs to apply to the instruments to be made under the Act before 6 April 2011 so that they will be classified as Scottish statutory instruments. Further, the definition of the negative procedure in section 28 of the 2010 Act and the definition of the affirmative procedure in section 29 of the 2010 Act will need to be applied to those instruments.

Consultation

On 21 September 2010 the Government launched a consultation exercise on the commencement of the remainder of the 2010 Act. The consultation paper proposed

that Parts 2, 4, 5 and the provisions of Part 6 not already in force would be brought into force on 6 April 2011.

Only one respondent commented on the suitability of the commencement date. The respondent suggested that it would be preferable for Part 2 to be commenced during the dissolution period. This suggestion proceeded from a misapprehension about the actual date of dissolution. The commencement date 6 April 2011 was chosen because it does fall during the dissolution period.

The Government has worked closely with the Parliament and the Queen's Printer for Scotland (as primary stakeholders) in determining its strategy for commencement of the 2010 Act. The commencement date of 6 April 2011 arose in consequence of those dialogues.

Impact Assessments

The matters dealt with by the 2010 Act are of a highly technical nature. Parts 2, 4, 5, and the provisions of Part 6 not already commenced, impact principally on the internal functions of the Parliament and of the Queen's Printer for Scotland.

The only provisions being commenced that have any direct impact on the wider public are matters around the publication and printing of Scottish statutory instruments by the Queen's Printer. As explained at paragraphs 18 and 19 of the Government's consultation paper, none of the legislative reforms will disturb the existing practices which ensure that legislation is accessible to the public.

The commencement order does not in itself cause any impact. It only sets the date for the commencement of the remainder of the 2010 Act.

Financial Effects

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

Scottish Government
13 January 2011