EXECUTIVE NOTE

THE INTERPRETATION AND LEGISLATIVE REFORM (SCOTLAND) ACT 2010 (CONSEQUENTIAL PROVISIONS) ORDER 2011

SSI 2011/XXX

The Interpretation and Legislative Reform (Scotland) Act 2010 (Consequential Provisions) Order 2011 ("the Order") is made in exercise of the powers conferred by section 57(1) and (3) of the Interpretation and Legislative Reform (Scotland) Act 2010 ("the 2010 Act"). By virtue of section 57(4) of the 2010 Act, the Order is subject to the affirmative procedure as defined by section 29 of the 2010 Act.

Policy Objectives

The Interests of Members of the Scottish Parliament Act 2006 and the Scottish Parliamentary Pensions Act 2009 confer power on the Scottish Parliament to modify their own provisions by resolution. Since any such resolution will modify primary legislation, both Acts provided for the resolutions to be made publicly available by providing for the Scotland Act 1998 (Transitory and Transitional Provisions) (Statutory Instruments) Order 1999 ("the 1999 Order") to apply to them as if they were Scottish statutory instruments. The 1999 Order made provision in relation to the numbering, citation and publication of Scottish statutory instruments amongst other things and those provisions applied to the resolutions accordingly. The 1999 Order ceased to have effect on 6th April 2011 when section 55 of the 2010 Act came fully into force. From that date onwards provision in relation to the numbering, citation and publication of Scottish statutory instruments is made by the 2010 Act and by the Scottish Statutory Instruments Regulations 2011.

The Order's policy objective is to ensure that resolutions of the Parliament under the Interests of the Members of the Scottish Parliament Act 2006 and the Scottish Parliamentary Pensions Act 2009 continue to be published as if they were Scottish statutory instruments for the purposes of the 2010 Act and the Scottish Statutory Instruments Regulations 2011.

The Order will come into force on 6th April 2011, in parallel with the commencement of the remainder of the 2010 Act and the coming into force of the Scottish Statutory Instruments Regulations 2011.

Consultation

On 21st September 2010 the Government launched a consultation on the implementation of provisions of the 2010 Act. Paragraphs 59 to 61 of the consultation paper dealt with the question of what further provision might be required in consequence of the 2010 Act coming fully into force. The paper highlighted in particular the impact upon statutory frameworks for parliamentary resolutions made under the Interests of Members of the Scottish Parliament Act 2006 and the Scottish Parliamentary Pensions Act 2009. No respondent to the consultation commented on the parliamentary resolution issue.

However, in recognition that responsibility for the subject matter of the Acts concerned rests with the Parliament, the Government has liaised closely with the Parliamentary authorities in determining the policy and drafting approach set out in the Order. The provision contained in the Order aims to reflect that dialogue.

Impact Assessments

The matters dealt with by the Order are of a technical nature. The statutory framework for the publication of parliamentary resolutions impacts most directly on the internal functions of the Parliament (the Clerk of the Parliament) and the Queen's Printer for Scotland. However, the amendments made by the Order are consequential in nature and do not therefore result in the introduction of any additional burdens. Accordingly, the Order has no practical impact.

Provisions in the Order are concerned with the publication and printing of parliamentary resolutions and might therefore be considered to have a direct impact on the wider public. However, as explained at paragraphs 18 and 19 of the Government's consultation paper, none of the legislative reforms arising from the 2010 Act will result in any negative impact on the existing practices which ensure the accessibility of legislation to the public. In this case, the Order seeks to preserve the existing accessibility to the public of parliamentary resolutions made under the 2006 Act and the 2009 Act.

Financial Effects

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

Scottish Government
2 February 2011