

**2010 No. 322**

**AGRICULTURE**

**PUBLIC FINANCE AND ACCOUNTABILITY**

**PUBLIC SERVICES REFORM**

**The Public Services Reform (Scotland) Act 2010 (Ancillary Provisions) Order 2010**

*Made - - - - 8th September 2010*

*Laid before the Scottish Parliament 9th September 2010*

*Coming into force - - 1st October 2010*

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 132 and 133(1) of the Public Services Reform (Scotland) Act 2010<sup>(a)</sup> and all other powers enabling them to do so.

**Citation and commencement**

1. This Order may be cited as the Public Services Reform (Scotland) Act 2010 (Ancillary Provisions) Order 2010 and comes into force on 1st October 2010.

**Interpretation**

2. In this Order—

“the Act” means the Public Services Reform (Scotland) Act 2010; and

“the 2000 Act” means the Public Finance and Accountability (Scotland) Act 2000<sup>(b)</sup>.

**Section 31 (public functions: duties to provide information on certain expenditure etc.) of the Public Services Reform (Scotland) Act 2010: ancillary provision**

3. Section 31(1) and (3) of the Act does not apply—

(a) to expenditure incurred or payments made before 1st October 2010; and

(b) to expenditure incurred or payments made on or after 1st October 2010 provided that the expenditure or payment arises out of an obligation contained in a contract entered into by the public body before 1st October 2010 and disclosure of that expenditure or payment would breach an express term of the contract relating to that obligation.

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(a) 2010 asp 8.

(b) 2000 asp 1.

**Section 118 (amendment of the Public Finance and Accountability (Scotland) Act 2000) of the Public Services Reform (Scotland) Act 2010: ancillary provisions**

4. Section 10(2)(c) of, and paragraphs 2A and 3(a) of schedule 2 to, the 2000 Act as amended by section 118(2), (8)(b) and (8)(c)(i) of the Act apply only to an office-holder appointed under section 10(2)(c) of the 2000 Act on or after 1st October 2010.

5. Notwithstanding paragraph 2 of schedule 2 to the 2000 Act as amended by section 118(8)(a) of the Act, a member of staff of Audit Scotland appointed under section 10(2)(c) of the 2000 Act before 1st October 2010 is not disqualified from holding office in accordance with the terms of that appointment until another person is appointed to that office.

6. Section 13(4A) and (5) of the 2000 Act as amended by section 118(4)(a) and (b) of the Act applies only to a person appointed on or after 1st October 2010 to be the Auditor General for Scotland.

**Amendment of the Rural Development Contracts (Rural Priorities) (Scotland) Regulations 2008**

7. In article 13 of the Public Services Reform (Scotland) Act 2010 (Consequential Modifications) Order 2010(a) omit “and paragraph (3)(a)(iii) of column 2 of option 78 (controlled livestock grazing of woodland)”.

8. In the Rural Development Contracts (Rural Priorities) (Scotland) Regulations 2008(b) in paragraph (3)(d)(iii) of column 2 of option 78 (controlled livestock grazing of woodland) of Part 1 of Schedule 2 (rural priorities options) for “the Deer Commission for Scotland” substitute “Scottish Natural Heritage”.

*JOHN SWINNEY*  
A member of the Scottish Executive

St Andrew’s House,  
Edinburgh  
8th September 2010

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(a) S.S.I. 2010/222.

(b) S.S.I. 2008/100. Option 78 was inserted by S.S.I. 2009/411 and relevantly amended by S.S.I. 2010/222.

## EXPLANATORY NOTE

*(This note is not part of the Order )*

This Order makes transitional, saving and other ancillary provisions in relation to the Public Services Reform (Scotland) Act 2010 (“the Act”).

Article 3 disapplies section 31(1) and (3) of the Act in respect of (a) expenditure incurred or payments made before 1st October 2010, and also (b) expenditure incurred or payments made on or after 1st October 2010 provided that the expenditure or payment arises out of a contractual obligation entered into before 1st October 2010 and disclosure of that expenditure or payment would breach an express term of the contract relating to that obligation.

Article 4 disapplies the amendments made by the Act to section 10(2)(c) of, and paragraphs 2A and 3(a) of schedule 2 to, the Public Finance and Accountability (Scotland) Act 2000 (“the 2000 Act”) in respect of an office-holder appointed before 1st October 2010. An office-holder appointed jointly by the Auditor General and the Chairman of the Accounts Commission may therefore continue to hold office in accordance with the terms of that appointment.

Article 5 permits, notwithstanding the amendments made by the Act to paragraph 2 of schedule 2 to the 2000 Act, any member of staff of Audit Scotland appointed as an office-holder 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 to that office.

Article 6 disapplies, in respect of the person holding the office of Auditor General for Scotland immediately prior to 1st October 2010, the amendments made by the Act to section 13(4A) and (5) of the 2000 Act which would otherwise require the Auditor General to have been appointed for 8 years and to have vacated office at the end of that period.

Articles 7 and 8 correct an error in the Public Services Reform (Scotland) Act 2010 (Consequential Modifications) Order 2010, and ensure that the remaining reference to the Deer Commission for Scotland in the Rural Development Contracts (Rural Priorities) (Scotland) Regulations 2008 is replaced by a reference to Scottish Natural Heritage. A new reference is required as a consequence of the transfer of the functions of that Commission to Scottish Natural Heritage on 1st August 2010.

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