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Finance and Public Administration Committee

Subordinate Legislation: The Public Services Reform (Scotland) Act 2010 (Part 2 Further Extension) Order 2025 [draft]



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Finance and Public Administration Committee

To consider and report on the following (and any additional matter added under Rule 6.1.5A)—

(a) any report or other document containing proposals for, or budgets of, public revenue or expenditure or proposals for the making of a Scottish rate resolution, taking into account any report or recommendations concerning such documents made by any other committee with power to consider such documents or any part of them;

(b) any report made by a committee setting out proposals concerning public revenue or expenditure;

(c) Budget Bills; and

(d) any other matter relating to or affecting the revenue or expenditure of the Scottish Administration or other monies payable into or expenditure payable out of the Scottish Consolidated Fund.

(e) matters relating to the National Performance Framework within the responsibilities of the Deputy First Minister, public service reform within the responsibility of the Cabinet Secretary for Finance and Local Government, and public administration.



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The Order

1. Public Services Reform (Scotland) Act 2010 (Part 2 Further Extension) Order 2025 [draft] ¹ extends the duration of Part 2 order making powers under the Public Services Reform (Scotland) Act 2010 ² for a further 5-year period from June 2025. The 2010 Act provides Ministers with order making powers in two instances:
 - to add, remove or change the functions of public bodies to improve their efficiency, effectiveness and economy (section 14), and
 - to reduce or remove burdens for any person resulting from legislation (section 17).
2. The policy note ³ accompanying the instrument explains that “the order making powers provide an important vehicle for Ministers, with the approval of Parliament, to make provision through the use of order-making powers, in ways that are more streamlined and flexible than primary legislation would require”. The policy note goes on to state that—
 -  The safeguards provided in the 2010 Act for any proposed use of these powers, including preconditions on the circumstances in which they can be used and the requirement for consultation of stakeholders and approval by Parliament through super-affirmative procedure, mean that any proposed changes are subject to rigorous examination and scrutiny.
3. The policy note further highlights the importance of retaining the powers in the future against a challenging financial context, “as a lever in ensuring public services remain affordable in the near future, sustainable longer-term and continue to support better outcomes for people across Scotland”.

Consultation

4. Prior to laying the instrument, the Scottish Government undertook a public consultation on the proposal to seek a further 5-year extension to the order making powers from June 2025. The consultation⁴ ran from 16 December 2024 to 10 February 2025.
5. The Scottish Government's consultation received 21 responses: 9 from public bodies, 6 from members of the public, 4 from local authorities, and 2 from other bodies. According to the policy note, 16 respondents supported the proposals, 4 were opposed, and 1 was neutral. It explains that those respondents who supported the proposals did so for several reasons, including that they allow changes to be made with flexibility and without the need for “burdensome legislative processes that primary legislation requires”. Reasons for opposing the proposals included “a fear that the powers could be used by an administration to reduce the authority or resources of regulatory bodies and other organisations which are critical for government to run democratically”.
6. In response to the respondents who opposed the proposed extension, the Scottish Government explains in the policy note that the super-affirmative procedure required for any use of the powers “offers broadly similar democratic protections to primary legislation”.

Consideration by the Delegated Powers and Law Reform Committee

7. The DPLR Committee considered the instrument on 25 February 2025⁵ and, in its 13th report, 2025⁶, which was published on the same date, stated that—
 - ” In relation to the above instrument, the Committee draws to the attention of the lead committee that this is a significant instrument which will further extend the operation of regulation-making powers which would otherwise expire in May 2025.

Consideration by the Finance and Public Administration Committee

8. At its meeting on 11 March 2025, the Committee took evidence from the Minister for Public Finance, Ivan McKee MSP in relation to the Order. During evidence, the Committee asked a number of questions of the Minister, the responses of which can be found in the Official Report ⁷.
9. The Minister told the Committee that the powers contained in this order are one of the levers that can be used to deliver on the Government's priority of delivering effective and sustainable public services. The Minister explained that the powers offer important tools to drive public service reform as they can be used to adjust the configuration of the public bodies landscape to release funds for front-line services.
10. A range of issues were discussed including (i) criteria and data to support measuring progress with public service reform, (ii) the government's approach to preventative spending, (iii) the status of its 'invest to save' fund, and (iii) whether adopting a zero-based budgeting approach could provide a cost-effective transformation of the public bodies landscape.
11. Committee Members indicated that they would be interested in scrutinising data that will be released later this year outlining some public sector efficiencies.
12. Following the questions, the Minister moved the following motion in his name:

S6M-16547: That the Finance and Public Administration Committee recommends that the Public Services Reform (Scotland) Act 2010 (Part 2 Further Extension) Order 2025 [draft] be approved.

Conclusion

13. **Motion S6M-16547 was agreed without division. The Finance and Public Administration Committee therefore recommends that the Public Services Reform (Scotland) Act 2010 (Part 2 Further Extension) Order 2025 [draft] be approved.**

- [1] Scottish Government. (2025). The Public Services Reform (Scotland) Act 2010 (Part 2 Further Extension) Order 2025. Retrieved from <https://www.legislation.gov.uk/sdsi/2025/9780111062142/contents>
- [2] Scottish Government. (2010). Public Services Reform (Scotland) Act 2010. Retrieved from <https://www.legislation.gov.uk/asp/2010/8/contents>
- [3] Scottish Government. (2025). Policy note for The Public Services Reform (Scotland) Act 2010 (Part 2 Further Extension) Order 2025. Retrieved from <https://www.legislation.gov.uk/sdsi/2025/9780111062142/policy-note/contents>
- [4] Scottish Government. (2024). Public Services Reform (Scotland) Act 2010 - Part 2 order making powers extension: consultation. Retrieved from <https://www.gov.scot/publications/public-services-reform-scotland-act-2010-extension-part-2-order-making-powers-2/>
- [5] Scottish Parliament. (2025, February 25). Official Report, Delegated Powers and Law Reform Committee. Retrieved from <https://www.parliament.scot/api/sitecore/CustomMedia/OfficialReport?meetingId=16275>
- [6] (5) Scottish Parliament. (2025, February 25). Subordinate Legislation considered by the Delegated Powers and Law Reform Committee on 25 February 2025. Retrieved from <https://bprcdn.parliament.scot/published/DPLR/2025/2/25/b3de7054-3e76-40b9-87b8-c34a739fd42a/DPLRS062025R13.pdf>
- [7] Scottish Parliament. (2025, March 11). Official Report, Finance and Public Administration Committee. Retrieved from <https://www.parliament.scot/api/sitecore/CustomMedia/OfficialReport?meetingId=16310>

Finance and Public Administration Committee

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