Draft Order laid before Parliament under paragraphs 1, 2 and 3 of Schedule 7 to the Scotland Act 1998, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2011 No.

CONSTITUTIONAL LAW
DEVOLUTION, SCOTLAND
PUBLIC SERVICES REFORM

The Public Services Reform (Scotland) Act 2010 (Consequential Modifications of Enactments) Order 2011

Made - - - - 2011

Coming into force in accordance with article 1(2)

The Secretary of State makes the following Order in exercise of the powers conferred by sections 104, 112(1) and 113(2), (4) and (5) of the Scotland Act 1998(**1**).

In accordance with section 115(1) of, and paragraphs 1, 2 and 3 of Schedule 7 to, that Act a draft of this Order has been laid before and approved by a resolution of each House of Parliament.

Citation, commencement and extent

1.—(1) This Order may be cited as the Public Services Reform (Scotland) Act 2010 (Consequential Modifications of Enactments) Order 2011.

(2) This Order shall come into force as follows—

(a) this Article shall come into force on the day after the day on which this Order is made;

(b) Schedules 1 and 2 (and Article 2 so far as relating to them) shall come into force on the day after the day on which this Order is made;

(c) Schedule 3 (and Article 2 so far as relating to it) shall come into force on whichever is the later of—

(i) the day section 3 of the Public Services Reform (Scotland) Act 2010(**2**) comes into force, and

(ii) the day after the day on which this Order is made.

(**1**) 1998 c.46.
(**2**) 2010 asp 8.

(3) The modifications made by the Schedules have the same extent as the provisions being modified.

Consequential modifications of enactments

2. The enactments mentioned in Schedules 1 to 3 are modified as there specified.

Signed by authority of the Secretary of State

Name
Dover HouseLondon — Parliamentary Under Secretary of State
Date — Scotland Office

SCHEDULE 1 Article 2

Establishment of Creative Scotland and dissolution of the Scottish Arts Council and the Deer Commission for Scotland: modification of enactments

PART 1

Primary Legislation

House of Commons Disqualification Act 1975

1. In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975(**3**) (other disqualifying offices)—

(a) insert at the appropriate place—

"Chair of Creative Scotland.";

(b) omit the following entries—

"Chairman of the Scottish Arts Council."

"Chairman of the Deer Commission for Scotland.".

PART 2

Secondary Legislation

Public Contracts Regulations 2006

2. In Schedule 1 to the Public Contracts Regulations 2006(**4**) (GPA Annex 1 Contracting Authorities) omit "Deer Commission for Scotland".

(**3**) 1975 c.24. Part 3 was relevantly amended by the Deer (Amendment) (Scotland) Act 1996 (c.44), Schedule 1, paragraph 4(b) and by S.I. 2010/762. There are other amendments to that Part not relevant to this Schedule.
(**4**) S.I. 2006/5, to which there are amendments not relevant to this Schedule.

SCHEDULE 2 Article 2

Establishment of Social Care and Social Work Improvement Scotland and Healthcare Improvement Scotland and dissolution of the Scottish Commission for the Regulation of Care: modification of enactments

PART 1

Primary legislation

Medicines Act 1968

1. In section 10(9) of the Medicines Act 1968(**5**) (exemptions for pharmacists: definition of care home services) for "section 2(3) of the Regulation of Care (Scotland) Act 2001 (asp 8)(**6**)" substitute "paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010 (asp 8)(**7**)".

House of Commons Disqualification Act 1975

2. In Schedule 1 to the House of Commons Disqualification Act 1975 (offices disqualifying for membership)—

(a) in Part 2(**8**) (bodies of which all members are disqualified) at the appropriate places insert —

"Healthcare Improvement Scotland.";

"Social Care and Social Work Improvement Scotland.";

(b) in Part 3(**9**) omit "Convenor or member of the Scottish Commission for the Regulation of Care.".

Anatomy Act 1984

3. In section 4(9)(b) of the Anatomy Act 1984(**10**) (lawful examination of body lying in accommodation provided by care home service) for "section 2(3) of the Regulation of Care (Scotland) Act 2001 (asp 8)" substitute "paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010 (asp 8)".

Adoption and Children Act 2002

4. In the Adoption and Children Act 2002(**11**)—

(a) in section 131(1)(d) (supplementary provisions) for "Regulation of Care (Scotland) Act 2001 (asp 4)" substitute "Public Services Reform (Scotland) Act 2010 (asp 8)";

(b) in section 144(3) (general interpretation)—

(i) for "Regulation of Care (Scotland) Act 2001 (asp 4)" substitute "Public Services Reform (Scotland) Act 2010 (asp 8)";

(**5**) 1968 c.67. Section 10 was relevantly amended by the Regulation of Care (Scotland) Act 2001 (asp 8), schedule 3, paragraph 5.
(**6**) 2001 asp 8. Parts 1 and 2 and schedule 1 were repealed by the Public Services Reform (Scotland) Act 2010 (asp 8).
(**7**) 2010 asp 8.
(**8**) 1975 c.24. There are amendments to Part 2 not relevant to this Schedule.
(**9**) Part 3 was relevantly amended by S.I. 2010/762.
(**10**) 1984 c.14. The repeal of this Act by the Human Tissue Act 2004 (c. 30), (section 57 and Part 1 of Schedule 7) did not (with the exception of section 4(5)) extend to Scotland (see section 59(8) and (9) of that Act).
(**11**) 2002 c.38. There are amendments to section 144 not relevant to this Schedule.

(ii) for "Part 1" substitute "Chapter 3 of Part 5".

Nationality, Immigration and Asylum Act 2002

5. In section 133(4)(c) of the Nationality, Immigration and Asylum Act 2002(**12**) (disclosure by medical inspector to Health Service Body in relation to Scotland) after sub-paragraph (ii) insert—

"(iia) Healthcare Improvement Scotland established under section 10A of the 1978 Act,(**13**)

Income Tax (Earnings and Pensions) Act 2003

6. In the Income Tax (Earnings and Pensions) Act 2003(**14**)—

(a) in section 318(5)(b) (exemption for employer-provided childcare: registration requirements) for "Part 1 or 2 of the Regulation of Care (Scotland) Act 2001" substitute "Part 5 of the Public Services Reform (Scotland) Act 2010";

(b) in section 318C(4) (childcare: meaning of "qualifying child care")—

(i) in paragraph (a)(i) for "within the meaning of section 2 of the Regulation of Care (Scotland) Act 2001" substitute "as defined by paragraphs 12 and 13 respectively of schedule 12 to the Public Services Reform (Scotland) Act 2010";

(ii) in paragraph (a)(ii) for "Part 1" substitute "Chapter 3 of Part 5";

(iii) in paragraph (b)(i) for "within the meaning of section 2 of the Regulation of Care (Scotland) Act 2001" substitute "as defined by paragraphs 12 and 13 respectively of schedule 12 to the Public Services Reform (Scotland) Act 2010";

(iv) in paragraph (b)(ii) for "Part 2" substitute "Chapter 4 of Part 5".

Finance Act 2003

7. In section 61 of the Finance Act 2003(**15**) (compliance with planning obligations), in the list of public authorities in subsection (3), after "A Health Board established under section 2(1)(a) of that Act(**16**)" insert "Healthcare Improvement Scotland established under section 10A of that Act".

Age-Related Payments Act 2004

8. In section 8(1) of the Age-Related Payments Act 2004(**17**) (interpretation), in paragraph (b) of the definition of "care home", for "section 2(3) of the Regulation of Care (Scotland) Act 2001 (asp 8)" substitute "paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010 (asp 8)".

(**12**) 2002 c.41. Section 133 was relevantly amended by the Health Protection Agency Act 2004 (c.17), Schedule 3, paragraph 17(4).
(**13**) 1978 c.29. Sections 10A to 10Z19 were inserted by the Public Services Reform (Scotland) Act 2010 (asp 8), section 108.
(**14**) 2003 c.1. Sections 318 and 318C were relevantly amended by the Finance Act 2004 (c.12), Schedule 13, paragraph 1 and section 318C was relevantly amended by S.I. 2009/2888 and 2011/775.
(**15**) 2003 c.14. There are amendments to section 61 not relevant to this Schedule.
(**16**) Section 2(1)(a) has been amended by the Health and Social Services and Social Security Adjudications Act 1983 (c.41), section 14(2); the National Health Service and Community Care Act 1990 (c.19), section 28(a)(i) and (ii); the National Health Service Reform (Scotland) Act 2004 (asp 7), schedule 1, paragraph 1(2)(a) and by the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13).
(**17**) 2004 c.10. There are amendments to section 8 not relevant to this Schedule.