



## Public Services Reform (Scotland) Bill

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Bill Number:	SP Bill 26
Introduced on:	28 May 2009
Introduced by:	John Swinney MSP
Passed:	25 March 2010
Royal Assent:	28 April 2010

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### Passage of the Bill

The Public Services Reform (Scotland) Bill was introduced in the Parliament on 28 May 2009. Stage 1 commenced on 1 September 2009 with the Finance Committee as the lead Committee. The Bill was also considered at Stage 1 by the Education, Lifelong Learning and Culture Committee, the Health and Sport Committee and the Rural Affairs and Environment Committee. The Stage 1 (general principles) debate took place on 7 January 2010 and the Bill was passed following the Stage 3 parliamentary debate on 25 March 2010.

### Provisions of the Bill

The following outlines some of the main features of the Bill.

#### ***Part 1: Simplification of Public Sector Landscape***

Part 1 of the Bill dissolves a number of public bodies including:

- the Deer Commission Scotland (DCS) whose functions are transferred to Scottish Natural Heritage (SNH)
- the Advisory Committee on Sites of Special Scientific Interest whose functions are transferred to SNH
- the Scottish Records Advisory Council – the Keeper of the Records of Scotland will co-ordinate advice to Ministers on archives and records matters
- the Scottish Industrial Development Board (SIDAB) – administration of the Regional Selective Assistance (RSA) grant schemes on which SIDAB currently advises will be transferred to Scottish Enterprise
- the Building Standards Advisory Committee – functions will be continued by the Scottish Government's Building Standards Division

- the Historic Environment Advisory Council for Scotland (HEACS) – functions will be delivered by Historic Scotland.

### ***Part 2: Order Making Powers***

Part 2 contains order making powers to provide a mechanism for making further changes to the public bodies landscape more quickly as and when opportunities arise. Specific pre-conditions and restrictions apply to the use of this power.

Part 2 also includes duties on public bodies to provide information on payments made in excess of £25,000 and information on certain expenditure such as public relations, overseas travel, hospitality and entertainment and external consultancy.

### ***Parts 3: Creative Scotland***

Part 3 establishes Creative Scotland as the new national body for arts and culture, taking over the functions of the Scottish Arts Council and Scottish Screen.

### ***Parts 4-5: Health, Social Care and Social Work Scrutiny***

Parts 4 and 5 pave the way for the reorganisation of some scrutiny and improvement bodies with the establishment of Social Care and Social Work Improvement Scotland, Healthcare Improvement Scotland and amendment of the Mental Welfare Commission's powers to focus its role as a protective body and ensure joined up working arrangements with the new scrutiny bodies.

### ***Part 6: Scrutiny***

Part 6 contains other provisions for scrutiny improvement, focussing on striking a balance between the need for independent external scrutiny and the ability of service providers to undertake robust self-assessment and self-improvement.

### **Parliamentary consideration**

The most controversial part of the Bill was in relation to the order-making powers in Part 2. In Stage 1 evidence to the Finance Committee, various witnesses argued that these powers gave the Executive too much power to abolish bodies via secondary rather than primary legislation. There were also concerns about the Parliamentary Bodies being on the list of public bodies subject to the powers. Stage 2 and 3 amendments imposed constraints on the use of these order-making powers.

Amendments passed meant that the abolition of a person, body or office-holder is only competent if the person, body or office-holder in question has no functions left to exercise – ie only if the functions have been abolished or transferred elsewhere. Other amendments included provisions to protect the independence of the judiciary and judicial decision making; civil liberties; and any existing duties to protect and preserve cultural heritage.

In terms of the parliamentary procedure for use of the order-making powers, the Scottish Government lodged amendments in response to the

recommendations of the Subordinate Legislation Committee which would require proposals for an order under section 10 or 13 of the Bill to be subject to an enhanced form of “super-affirmative” procedure. In its amendment 57, the Scottish Government proposed that if Scottish Ministers intend using the order-making power they must lay before the Parliament a copy of the proposed draft order and the proposed explanatory document and send copies of that order to any person who is required to be consulted. There would then be a period of 60 sitting days to allow consultation and to allow scrutiny by parliamentary committees should they wish. Once laid, the draft order would be subject to the affirmative resolution procedure.

Amendments were also passed which prevented Scottish Ministers from using the order-making powers in respect of the parliamentary commissioners or ombudsmen unless requested to do so by the Scottish Parliamentary Corporate Body (SPCB).

The following table provides the key dates in Parliamentary consideration of the Bill.

Bill introduced	28 May 2009
Stage 1: Finance Committee evidence sessions	1 September 2009; 8 September 2009; 15 September 2009; 22 September 2009; 29 September 2009; 6 October 2009; 27 October 2009.
Stage 1: Education, Lifelong Learning and Culture Committee	1 September 2009; 9 September 2009; 16 September 2009; 23 September 2009.
Stage 1: Health and Sport Committee	9 September 2009; 16 September 2009; 23 September 2009.
Stage 1: Rural Affairs and Environment Committee	16 September 2009.
Stage 1: Standards, Procedures and Public Appointments Committee	8 September 2009; 29 September 2009.
Stage 1: Subordinate Legislation Committee	8 September 2009; 22 September 2009.
Stage 1: Plenary Debate	7 January 2010.
Stage 2: Finance Committee	26 January 2010; 2 February 2010; 9 February 2010; 23 February 2010; 2 March 2010.
Stage 3: Plenary Debate and consideration of amendments	25 March 2010.