
STATUTORY INSTRUMENTS

2006 No. 2951

MINISTERS OF THE CROWN

**The Transfer of Functions (Third Sector,
Communities and Equality) Order 2006**

Made - - - - 14th November 2006
Laid before Parliament 21st November 2006
Coming into force - - 13th December 2006

At the Court at Buckingham Palace, the 14th day of November 2006

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in pursuance of sections 1 and 2 of the Ministers of the Crown Act 1975 (1), is pleased, by and with the advice of Her Privy Council, to order, and it is ordered, as follows:

Citation and Commencement

1.—(1) This Order may be cited as the Transfer of Functions (Third Sector, Communities and Equality) Order 2006.

(2) This Order comes into force on 13th December 2006.

Interpretation

2. In this Order—

- (a) “instrument”, without prejudice to the generality of that expression, includes in particular Royal Charters, Royal Warrants, Orders in Council, Letters Patent, judgments, decrees, orders, rules, regulations, schemes, bye-laws, awards, contracts and other agreements, memoranda and articles of association, certificates, deeds and other documents, and
- (b) a reference to the functions of a Minister under an enactment includes a reference to the functions of that Minister under an instrument having effect under that enactment.

Transfer from Secretary of State to Minister for the Cabinet Office

3.—(1) The function of the Secretary of State under section 5(1) of the Police, Factories, &c. (Miscellaneous Provisions) Act 1916⁽²⁾ (regulation of street collections) is exercisable concurrently with the Minister for the Cabinet Office.

(2) There are transferred to the Minister for the Cabinet Office the functions of the Secretary of State under—

- (a) sections 2, 3 and 4 of the House to House Collections Act 1939⁽³⁾ (licences: appeals, exemptions and regulations),
- (b) the Charities Act 1992⁽⁴⁾, and
- (c) the Charities Act 1993⁽⁵⁾.

Functions passing from Home Secretary to Minister for the Cabinet Office: supplemental

4.—(1) In this article “the third sector functions” means—

- (a) the functions which were entrusted to the Secretary of State for the Home Department immediately before 5th May 2006 and have been entrusted to the Minister for the Cabinet Office before the making of this Order, and
- (b) the functions transferred by article 3.

(2) All property, rights and liabilities to which the Secretary of State for the Home Department is entitled or subject at the coming into force of this Order in connection with the third sector functions are transferred to the Minister for the Cabinet Office.

(3) This Order does not affect the validity of anything done by or in relation to the Secretary of State for the Home Department before the coming into force of this Order in connection with the functions transferred by article 3.

(4) Anything done by or in relation to the Secretary of State for the Home Department in connection with—

- (a) the third sector functions, or
- (b) anything transferred by paragraph (2),

has effect, so far as necessary for continuing its effect after the coming into force of this Order, as if done by or in relation to the Minister for the Cabinet Office.

(5) Anything (including legal proceedings) which is in the process of being done by or in relation to the Secretary of State for the Home Department at the coming into force of this Order may, if it relates to the third sector functions or anything transferred by paragraph (2), be continued by or in relation to the Minister for the Cabinet Office.

(6) So far as is necessary for the purposes of or in consequence of paragraph (2) or of the entrusting or transfer to the Minister for the Cabinet Office of the third sector functions, an enactment or instrument passed or made before this Order comes into force has effect as if—

- (a) a reference to the Secretary of State or the Secretary of State for the Home Department were a reference to the Minister for the Cabinet Office,
- (b) a reference to the Home Department (or the Home Office) were a reference to the Cabinet Office, and

(2) 1916 c. 31.
(3) 1939 c. 44.
(4) 1992 c. 41.
(5) 1993 c. 10.

- (c) a reference to an officer of the Home Department (or the Home Office) were a reference to an officer of the Cabinet Office.

Functions passing from Home Secretary to Secretary of State for Communities and Local Government: supplemental

5.—(1) In this article “the community and equality functions” means the functions which were entrusted to the Secretary of State for the Home Department immediately before 5th May 2006 and have been entrusted to the Secretary of State for Communities and Local Government before the making of this Order.

(2) All property, rights and liabilities to which the Secretary of State for the Home Department is entitled or subject at the coming into force of this Order in connection with the community and equality functions are transferred to the Secretary of State for Communities and Local Government.

(3) Anything done by or in relation to the Secretary of State for the Home Department in connection with—

- (a) the community and equality functions, or
- (b) anything transferred by paragraph (2)

has effect, so far as necessary for continuing its effect after the coming into force of this Order, as if done by or in relation to the Secretary of State for Communities and Local Government.

(4) Anything (including legal proceedings) which is in the process of being done by or in relation to the Secretary of State for the Home Department at the coming into force of this Order may, if it relates to the community and equality functions or anything transferred by paragraph (2), be continued by or in relation to the Secretary of State for Communities and Local Government.

(5) So far as is necessary for the purposes of or in consequence of paragraph (2) or of the entrusting to the Secretary of State for Communities and Local Government of the community and equality functions, an enactment or instrument passed or made before this Order comes into force has effect as if—

- (a) a reference to the Secretary of State for the Home Department were a reference to the Secretary of State for Communities and Local Government,
- (b) a reference to the Home Department (or the Home Office) were a reference to the Department for Communities and Local Government, and
- (c) a reference to an officer of the Home Department (or the Home Office) were a reference to an officer of the Department for Communities and Local Government.

Consequential amendments

- 6. The Schedule (consequential amendments) has effect.

Christine Cook
Deputy Clerk of the Privy Council

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE

Article 6

CONSEQUENTIAL AMENDMENTS

Police, Factories, &c. (Miscellaneous Provisions) Act 1916 (c.31)

1. In section 5 of the Police, Factories, &c. (Miscellaneous Provisions) Act 1916 (regulation of street collections) after “Secretary of State” in each place insert “or the Minister for the Cabinet Office”.

House to House Collections Act 1939 (c.44)

2. In the following provisions of the House to House Collections Act 1939 in each place for “Secretary of State” substitute “Minister for the Cabinet Office”—

- (a) section 2 (appeal against refusal of licence),
- (b) section 3 (exemptions), and
- (c) section 4 (regulation of licensing).

Charities Act 1992 (c. 41)

3. In the following provisions of the Charities Act 1992, in each place for “Secretary of State” substitute “Minister”—

- (a) section 58(10) (interpretation),
- (b) section 61(8) (donor’s right to cancel payment),
- (c) section 64(1) (regulations about fund-raising),
- (d) section 73(1) (regulations about public collections),
- (e) section 77 (regulations and orders), and
- (f) section 79(2) (commencement).

Charities Act 1993 (c. 10)

4. In the following provisions of the Charities Act 1993, in each place for “Secretary of State” substitute “Minister”—

- (a) section 1(5) (Commissioners’ duty to report),
- (b) section 2(7) (accounts),
- (c) section 3 (register of charities),
- (d) section 3A(2)(c) (registration of charities),
- (e) section 4(2) (objections to registration),
- (f) section 5(6) (status of registered charity),
- (g) section 6(2)(c) (requirement to change charity’s name),
- (h) section 10B(5) (disclosure to and by principal regulators of exempt charities),
- (i) section 16(15) (concurrent jurisdiction of Commissioners and High Court),
- (j) section 17(2) (schemes of administration),
- (k) section 19(6) (receivers and managers),
- (l) section 20(1) (publicity),

- (m) section 28(8)(b) (dormant bank accounts),
- (n) section 30(4) (documents),
- (o) section 36(4)(a) (dispositions of land),
- (p) section 40(4) (rentcharges),
- (q) section 42 (annual statements of accounts),
- (r) section 43(8) (annual audit),
- (s) section 44(1) (audit: supplementary),
- (t) section 45 (annual reports),
- (u) section 48(4) (annual returns),
- (v) section 74(11) (power to transfer all property etc.),
- (w) section 75(9) (power to spend capital),
- (x) section 85(1) (fees),
- (y) section 86 (regulations and orders), and
- (z) paragraph 1 of Schedule 1 (appointment of Commissioners).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision in connection with the establishment of the Office of the Third Sector in the Cabinet Office and of the Department for Communities and Local Government. It transfers to the Minister for the Cabinet Office certain functions conferred by legislation on the Secretary of State and formerly entrusted to the Home Secretary. It makes supplemental provision in connection with those functions and with functions formerly entrusted to the Home Secretary that have already been entrusted to the Minister for the Cabinet Office or to the Secretary of State for Communities and Local Government.

Article 3 provides for a function of the Secretary of State under section 5(1) of the Police, Factories, &c. (Miscellaneous Provisions) Act 1916 (regulations of street collections) to be exercisable concurrently with the Minister for the Cabinet Office. It also provides for the functions of the Secretary of State under the Charities Acts 1992 and 1993 and under specified provisions of the House to House Collections Act 1939 to be transferred to the Minister for the Cabinet Office.

Article 4 makes supplemental provision in relation to the transfer of functions effected by article 3 and in relation to the entrusting to the Minister for the Cabinet Office of other functions formerly entrusted to the Home Secretary. These other functions relate to the voluntary and community sector, otherwise known as the Third Sector.

Article 5 makes supplemental provision in relation to the entrusting to the Secretary of State for Communities and Local Government of functions previously entrusted to the Home Secretary. These functions include in particular functions in relation to race relations, sponsorship of the Commission for Racial Equality, inter-faith matters, the promotion of civil renewal and community cohesion.

Article 6 and the Schedule to the Order make consequential amendments to primary legislation.

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

Nothing in this Order alters the functions of the National Assembly for Wales, the Scottish Ministers or the devolved authorities in Northern Ireland.