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WELSH STATUTORY INSTRUMENTS

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**2005 No. 3226 (W.238)**

**ECONOMIC DEVELOPMENT, WALES**

The Welsh Development Agency (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005

Made - - - - 22 November 2005

Coming into force the day after the Order is made.

The National Assembly for Wales, in exercise of the powers conferred upon it by section 28 of and Schedule 4 to the Government of Wales Act 1998(1), makes the following Order:

**Title, commencement and interpretation**

1.—(1) The title of this Order is the Welsh Development Agency (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 and it comes into force on the day after it is made.

(2) In this Order—

the “1975 Act” (“*Deddf 1975*”) means the Welsh Development Agency Act 1975(2);

the “Agency” (*yr “Awdurdod”*) means the Welsh Development Agency;

“alien” (“*aliwn*”) has the meaning given to it in section 51(4) of the British Nationality Act 1981(3);

the “Assembly” (*y “Cynulliad”*) means the National Assembly for Wales;

“relevant employee” (“*cyflogai perthnasol*”) means any person who, immediately before the transfer date, was employed by the Agency under a contract of employment; and

“transfer date” (“*dyddiad trosglwyddo*”) means 1 April 2006.

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**Commencement Information**

II Art. 1 in force at 23.11.2005, see [art. 1\(1\)](#)

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(1) 1998 c. 38.  
(2) 1975 c. 70  
(3) 1981 c. 61.

## Transfer of functions, property, rights and liabilities of the Agency to the Assembly

2.—(1) On the transfer date the functions of the Agency are transferred to the Assembly in accordance with the provisions of Schedules 1 and 2 which amend the enactments relating to the Agency for the purpose of—

- (a) transferring its functions to the Assembly, and
- (b) making provision consequential on or incidental or supplementary to the transfer.

(2) On the transfer date there are transferred to and vested in the Assembly by virtue of this paragraph all property, rights and liabilities to which the Agency was entitled or subject immediately before that date.

(3) The rights and liabilities referred to in paragraph (2) above include those arising under any contract of employment made between a relevant employee and the Agency.

(4) The Transfer of Undertakings (Protection of Employment) Regulations 1981(4) apply to the transfer of the functions of the Agency to the Assembly whether or not apart from this provision, the discharge of these functions would be treated as an undertaking in the nature of a commercial venture for the purposes of those Regulations.

(5) Notwithstanding anything in any other part of this Order or in the Transfer of Undertakings (Protection of Employment) Regulations 1981, where the effect of this article is that a person who is an alien becomes a member of the Assembly's staff, section 34(2) of the Government of Wales Act 1998 does not apply to the contract of employment of that person before the transfer date.

(6) A certificate issued by the Assembly that any property has been transferred by paragraph (2) is to be conclusive evidence of the transfer.

(7) Paragraph (2) has effect in relation to the property, rights or liabilities to which it applies in spite of any provision (of whatever nature) which would prevent or restrict the transfer of the property, rights or liabilities otherwise than by that paragraph.

### Commencement Information

**I2** Art. 2 in force at 23.11.2005, see [art. 1\(1\)](#)

## Transitional provisions

3.—(1) Nothing in article 2 or Schedules 1 or 2 affects the validity of anything done by or in relation to the Agency before its functions are transferred.

(2) There may be continued by or in relation to the Assembly anything (including legal proceedings) which—

- (a) relates to any of the functions of the Agency or to any property, rights or liabilities transferred by article 2(2), and
- (b) is in the process of being done by or in relation to the Agency when the said functions are transferred.

(3) Anything which—

- (a) was done by the Agency for the purpose of or in connection with any of its functions or by the Agency for the purpose of or in connection with any property, rights or liabilities transferred by article 2(2), and
- (b) is in effect immediately before its functions are transferred,

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(4) S.I. 1981/1794 as amended by the Trade Union Reform and Employment Rights Act 1993 (c. 19) by the Dock Work Act 1989 (c. 13) and by Statutory Instruments 1987/442, 1995/2587, 1998/1658, 1999/1925, 1999/2402 and 1999/2587.

is to have effect as if done by the Assembly, and for the avoidance of doubt any compulsory purchase orders made by the Agency in relation to land in Wales under section 2(2) of the Acquisition of Land Act 1981<sup>(5)</sup> and not confirmed prior to the transfer date will be deemed to be compulsory purchase orders made in draft by the Assembly under the procedure set out in Schedule 1 to that Act.

(4) The Assembly is substituted for the Agency in any instruments, contracts or legal proceedings which relate to—

- (a) any of the functions of the Agency, and
- (b) any property, rights or liabilities transferred by article 2(2),

and which are either made or commenced before its functions are transferred.

(5) The Assembly may—

- (a) continue to hold property held by the Agency, and
- (b) continue to carry on activities in which the Agency was engaged,

in reliance upon section 21(2) of the Industry Act 1980<sup>(6)</sup>.

(6) On the transfer date the obligations of the Agency, the Assembly and the Auditor General for Wales referred to below contained in paragraph 8 of Schedule 3 (Financial and administrative provisions relating to Agency) to the 1975 Act will have effect in respect of the financial year 2005 to 2006 only but are otherwise abolished—

- (a) the Agency's obligation under sub-paragraph (1) to prepare a statement of account, save that the obligation is transferred to the Assembly;
- (b) the Assembly's obligation under sub-paragraph (3) to transmit the statement of account to the Auditor General for Wales; and
- (c) the Auditor General for Wales' obligation under sub-paragraph (4) to examine and certify the statement of account and lay before the Assembly copies of the statement of account together with a report thereon.

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**Commencement Information**

**I3** Art. 3 in force at 23.11.2005, see [art. 1\(1\)](#)

**Industrial buildings allowances**

4.—(1) The transfer of property from the Agency to the Assembly under this Order does not give rise to any allowances or charges under the Capital Allowances Act 2001.

(2) In relation to the property included in the transfer, for the purposes of calculating industrial buildings allowances under that Act anything done to or by the Agency before the transfer is to be treated after the transfer as having been done to or by the Assembly.

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**Commencement Information**

**I4** Art. 4 in force at 23.11.2005, see [art. 1\(1\)](#)

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(5) 1981 c. 67.

(6) 1980 c. 33.

## Abolition

5. Upon the transfer of its functions, property, rights and liabilities to the Assembly on the transfer date in accordance with article 2, the Agency is to cease to exist.

### Commencement Information

**I5** Art. 5 in force at 23.11.2005, see [art. 1\(1\)](#)

## Winding down

6. The Agency must give to the Assembly all the information and do all other things which appear to the Assembly appropriate for the purpose of facilitating the transfer of its functions to the Assembly and its abolition in accordance with this Order.

### Commencement Information

**I6** Art. 6 in force at 23.11.2005, see [art. 1\(1\)](#)

## Amendments to, repeals of and revocations of existing enactments

7.—(1) On the transfer date—

- (a) the provisions of the 1975 Act specified in Schedule 1 to this Order are amended in accordance with that schedule;
- (b) the enactments specified in Part 1 of Schedule 2 to this Order are amended in accordance with that schedule; and
- (c) the enactments specified in Part 2 of Schedule 2 to this Order are repealed or revoked, as the case may be.

(2) The amendments to, repeals of and revocations of enactments extend to the same extent as the enactment which is amended, repealed or revoked.

### Commencement Information

**I7** Art. 7 in force at 23.11.2005, see [art. 1\(1\)](#)

## Saving provisions

8.—(1) Any planning permission deemed to have been granted by virtue of section 7 (Dissolution of the Welsh Industrial Estates Corporation) of the 1975 Act remains in force notwithstanding the repeal of that section.

(2) Paragraph 7 of Schedule 2 (Members of staff of the Welsh Industrial Estates Corporation) to the 1975 Act shall remain in force in respect of any members of staff of the Agency who were transferred to the employment of the Agency from the employment of the Welsh Industrial Estates Corporation.

### Commencement Information

**I8** Art. 8 in force at 23.11.2005, see [art. 1\(1\)](#)

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(7)

22 November 2005

*D. Elis-Thomas*  
The Presiding Officer of the National Assembly

## SCHEDULE 1

Article 7(1)

**The Welsh Development Agency Act 1975**

1. The Welsh Development Agency Act 1975 has effect subject to the following amendments.

**Commencement Information**

**I9** Sch. 1 para. 1 in force at 23.11.2005, see [art. 1\(1\)](#)

2. Unless otherwise provided for in the following provisions, in each place where it occurs (including in headings to sections and schedules)—

- (a) for “Agency” substitute “Assembly”; and
- (b) for “Agency's” substitute “Assembly's”.

**Commencement Information**

**I10** Sch. 1 para. 2 in force at 23.11.2005, see [art. 1\(1\)](#)

3. In section 1 (The Welsh Development Agency)—

- (1) for subsection (1), substitute—

“(1) The functions specified in the following provisions of this Act are conferred upon the National Assembly for Wales (in this Act referred to as the “Assembly”).”;

- (2) in subsections (2), (3)(j), (4), (6) (in the first place it occurs) and (7)(l), for “their” substitute “its”;

- (3) in subsections (2) and (4) after “functions” insert “under this Act”;

- (4) in subsection (3) immediately before “shall be” insert “under this Act”;

- (5) in subsection (7) after “have power” insert “in connection with its functions under this Act”;

- (6) at the end of subsection (7)(m) insert “under this Act”;

- (7) omit subsections (8) to (13) and (15);

- (8) for subsection (14) substitute—

“(14) The Assembly shall, after consultation with such local authorities, National Park authorities and other bodies as appear to the Assembly to have an interest, from time to time prepare and publish programmes for the performance of such of its functions under this Act as it considers appropriate.”; and

- (9) for the heading to section 1 substitute “Welsh development”.

**Commencement Information**

**I11** Sch. 1 para. 3 in force at 23.11.2005, see [art. 1\(1\)](#)

4. Omit section 2 (Constitution and status).

**Commencement Information**

**I12** Sch. 1 para. 4 in force at 23.11.2005, see [art. 1\(1\)](#)

**5.** In section 4 (Ancillary powers)—

- (1) after “power”, insert “in connection with its functions under this Act”;
- (2) in paragraph (a), for “their services as they think” substitute “its services as it thinks”;
- (3) in paragraph (b), for “them” substitute “it” and for “of their” substitute “such”; and
- (4) in paragraph (c), for “their” substitute “such”.

**Commencement Information**

**I13** Sch. 1 para. 5 in force at 23.11.2005, see [art. 1\(1\)](#)

**6.** In subsection (1) of section 5 (Assistance to Agency from public authorities and other persons), for “their” substitute “its”.

**Commencement Information**

**I14** Sch. 1 para. 6 in force at 23.11.2005, see [art. 1\(1\)](#)

**7.** For section 6 (Power to form committees) substitute—

“**6.**—(1) The Assembly may establish such committees for giving advice to the Assembly about the discharge of any of its functions under this Act as it considers appropriate.

(2) The members of any such committee are to be appointed by the Assembly and may be either members of the Assembly or persons who are not members.”.

**Commencement Information**

**I15** Sch. 1 para. 7 in force at 23.11.2005, see [art. 1\(1\)](#)

**8.** Omit section 7 (Dissolution of Welsh Industrial Estates Corporation).

**Commencement Information**

**I16** Sch. 1 para. 8 in force at 23.11.2005, see [art. 1\(1\)](#)

**9.** Omit section 8 (Transfer to Agency of land held under the Local Employment Act 1972).

**Commencement Information**

**I17** Sch. 1 para. 9 in force at 23.11.2005, see [art. 1\(1\)](#)

**10.** In section 9 (Provision of sites and premises for industry)—

- (1) omit subsection (1);
- (2) in subsection (2), for “For that purpose” substitute “For the purpose of providing or managing sites and premises for businesses and providing related facilities, or making land available for development”; and
- (3) for subsection (3), substitute—

*Changes to legislation: There are currently no known outstanding effects for the The Welsh Development Agency (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005. (See end of Document for details)*

“(3) The Assembly may, if it considers there are circumstances which justify the giving of special assistance, provide premises for the occupation of a business free of rent for such time as it thinks appropriate”.

**Commencement Information**

**I18** Sch. 1 para. 10 in force at 23.11.2005, see [art. 1\(1\)](#)

**11.** In section 10 (Services, etc for development of industry), for “Secretary of State may authorise the Agency to” substitute “Assembly may” and for “him” substitute “it”.

**Commencement Information**

**I19** Sch. 1 para. 11 in force at 23.11.2005, see [art. 1\(1\)](#)

**12.** Omit section 10A (Financial assistance for regeneration and development).

**Commencement Information**

**I20** Sch. 1 para. 12 in force at 23.11.2005, see [art. 1\(1\)](#)

**13.** In section 13 (Welsh Industrial Development Advisory Board)—

(1) in subsection (1)—

- (a) for “Secretary of State” substitute “Assembly”,
- (b) for “him” substitute “it”, and
- (c) for “his” substitute “its”;

(2) in subsection (3), for “Secretary of State” substitute “Assembly”; and

(3) for subsection (4) substitute—

“(4) If the Board make a recommendation with respect to any matter at the request of the Assembly and the Assembly exercises its functions under section 7 of the Industrial Development Act 1982 contrary to their recommendation, it shall, if the Board so request, publish a statement as to the matter.”.

**Commencement Information**

**I21** Sch. 1 para. 13 in force at 23.11.2005, see [art. 1\(1\)](#)

**14.** Omit section 14 (Transfer of publicly-owned property to Agency).

**Commencement Information**

**I22** Sch. 1 para. 14 in force at 23.11.2005, see [art. 1\(1\)](#)

**15.** For section 15 (The environment) substitute—

“**15.—**(1) The Assembly’s duty under section 1(14) above to prepare and publish, after consultation with such local authorities, National Park authorities and other bodies as appear to the Assembly to have an interest, programmes for the performance of the Assembly’s functions under this Act, includes in particular a duty to prepare and publish programmes,

to be implemented either by the Assembly itself, or by the Assembly acting jointly with any other authority or person, or through persons or authorities acting on behalf of the Assembly, for the improvement, development or redevelopment of the environment in Wales.

(2) The Assembly may make payments to any authority or person of such amount and in such manner as it may determine for carrying out work which the Assembly considers will contribute to the purposes of such a programme.”.

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**Commencement Information**

**I23** Sch. 1 para. 15 in force at 23.11.2005, see [art. 1\(1\)](#)

**16.** In section 16 (Derelict land)—

(1) in subsection (1), in the closing words, for “they may, with the consent of the Secretary of State,” substitute “it may”;

(2) in subsection (3), in paragraph (a) for “they” substitute “it” and in the closing words of the subsection for “on them” substitute “on it”;

(3) in subsection (6), for “Secretary of State with the consent of the Treasury” substitute “Assembly”; and

(4) for subsection (8) substitute—

“(8) A statutory instrument containing an order under subsection (6) above may make such transitional provision as appears to the Assembly to be necessary or expedient.”.

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**Commencement Information**

**I24** Sch. 1 para. 16 in force at 23.11.2005, see [art. 1\(1\)](#)

**17.** Omit section 17 (Financial duties of the Agency).

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**Commencement Information**

**I25** Sch. 1 para. 17 in force at 23.11.2005, see [art. 1\(1\)](#)

**18.** In section 18 (Finances of the Agency)—

(1) omit subsections (2) to (5), and

(2) for the heading substitute “Borrowing and guarantees”.

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**Commencement Information**

**I26** Sch. 1 para. 18 in force at 23.11.2005, see [art. 1\(1\)](#)

**19.** Omit section 19 (The Agency and the media).

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**Commencement Information**

**I27** Sch. 1 para. 19 in force at 23.11.2005, see [art. 1\(1\)](#)

**20.** Omit section 20 (Other limits on the Agency’s powers).

**Changes to legislation:** There are currently no known outstanding effects for the The Welsh Development Agency (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005. (See end of Document for details)

**Commencement Information**

**I28** Sch. 1 para. 20 in force at 23.11.2005, see [art. 1\(1\)](#)

**21.** Omit section 21 (Expenses).

**Commencement Information**

**I29** Sch. 1 para. 21 in force at 23.11.2005, see [art. 1\(1\)](#)

**22.** For section 21A (Powers of land acquisition) substitute—

“**21A.**—(1) The powers to acquire land mentioned in sections 1(7)(h) and 16(3)(b) above are powers—

- (a) to acquire land by agreement;
- (b) in relation to land in Wales, to acquire land compulsorily; and
- (c) in relation to land in England, to acquire land compulsorily if authorised to do so by the Secretary of State.

(2) Where the Assembly acquires or has acquired land under subsection (1) above, it has power—

- (a) to acquire by agreement,
- (b) in relation to land in Wales, to acquire compulsorily, and
- (c) in relation to land in England, if authorised to do so by the Secretary of State, to acquire compulsorily,

the land described in subsection (2A) below.

(2A) The land is—

- (a) any land which adjoins the land which the Assembly acquires or has acquired under subsection (1) and which is required for the purpose of executing works for facilitating its development or use; and
- (b) where the land which the Assembly acquires or has acquired under subsection (1) forms part of a common, an open space or a fuel or field garden allotment, any land required for the purpose of being given in exchange for it.

(3) The Assembly may under subsection (1) above acquire rights over land by the creation of new rights (as well as by acquiring rights already in existence).

(4) Before the Assembly acquires land under subsection (1) for the purpose of its function under section 1(3)(da) above, it shall—

- (a) consider whether the land would or would not in its opinion be made available for development if it did not act;
- (b) consider the fact that planning permission has or has not been granted in respect of the land or is likely or unlikely to be granted;
- (c) (in the case where no planning permission has been granted in respect of the land) consult every relevant local authority; and
- (d) consider the needs of those engaged in building, agriculture and forestry and of the community in general.

(5) For the purposes of subsection (4)(c) above, each of the following is a relevant local authority—

- (a) the council of any county, county borough or district in whose area the land, or any part of the land, is situated;
  - (b) any joint planning board in whose district the land, or any part of the land, is situated; and
  - (c) any National Park authority which is the local planning authority for a National Park in which the land, or any part of the land, is situated.
- (6) Where the Assembly has acquired land under subsection (1) above for the purpose of any of its functions under this Act it may appropriate it to the purpose of any of its other functions under this Act.
- (7) Where the Assembly has—
- (a) acquired land under subsection (1) above for the purposes of its function under section 1(3)(da) above; or
  - (b) under subsection (6) above has appropriated land to that purpose,
- it shall, until it either disposes of the land or appropriates the land under subsection (6) above to the purpose of any of its other functions under this Act, manage the land and turn it to account.
- (8) Schedule 4 to this Act shall have effect.”

**Commencement Information**

**I30** Sch. 1 para. 22 in force at 23.11.2005, see [art. 1\(1\)](#)

**23.** In paragraph (b) of section 21B (Disposal of land), for “with the consent of the Secretary of State” substitute “otherwise as it considers appropriate”.

**Commencement Information**

**I31** Sch. 1 para. 23 in force at 23.11.2005, see [art. 1\(1\)](#)

**24.** In section 21C (Powers to advise on land matters), in subsection (2)—

- (a) omit paragraph (b); and
- (b) in paragraph (i), for “Secretary of State” substitute “Assembly”.

**Commencement Information**

**I32** Sch. 1 para. 24 in force at 23.11.2005, see [art. 1\(1\)](#)

**25.** Omit section 24 (Power to obtain information).

**Commencement Information**

**I33** Sch. 1 para. 25 in force at 23.11.2005, see [art. 1\(1\)](#)

**26.** Omit section 25 (Service of documents).

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**Commencement Information**

**I34** Sch. 1 para. 26 in force at 23.11.2005, see [art. 1\(1\)](#)

**27.** In section 27 (Interpretation)—

- (1) in subsection (1), omit the definition of “accounting year”; and
- (2) omit subsection (2).

**Commencement Information**

**I35** Sch. 1 para. 27 in force at 23.11.2005, see [art. 1\(1\)](#)

**28.** In section 28 (Orders and regulations), omit subsection (1A).

**Commencement Information**

**I36** Sch. 1 para. 28 in force at 23.11.2005, see [art. 1\(1\)](#)

**29.** In section 29 (Citation etc), in subsection (3), omit “and paragraphs 13 and 21 of Schedule 1 below” and for “extend” substitute “extends”.

**Commencement Information**

**I37** Sch. 1 para. 29 in force at 23.11.2005, see [art. 1\(1\)](#)

**30.** Omit Schedule 1 (The Welsh Development Agency).

**Commencement Information**

**I38** Sch. 1 para. 30 in force at 23.11.2005, see [art. 1\(1\)](#)

**31.** Omit Schedule 2 (Members and staff of the Welsh Industrial Estates Corporation).

**Commencement Information**

**I39** Sch. 1 para. 31 in force at 23.11.2005, see [art. 1\(1\)](#)

**32.** In Schedule 3 (Financial and administrative provisions relating to the Agency)—

- (1) omit paragraphs 1, 2, 4, 7, 8 and 9 and the headings to paragraphs 1, 4, 7, 8 and 9;
- (2) for paragraph 3 substitute—

“(3) For the purpose of exercising its functions under this Act, the Assembly may borrow money from any person (including its wholly owned subsidiaries), but any borrowing in a currency other than sterling requires the approval of the Treasury.”;

- (3) for paragraph 5 substitute—

“(5) It is the duty of the Assembly to secure that none of its wholly owned subsidiaries formed in pursuance of the exercise of the Assembly’s functions under this Act borrows money otherwise than from the Assembly or from another wholly owned subsidiary of the Assembly, except with the Assembly’s consent.”;

(4) in paragraph 6(1), for “borrow from a person other than the Secretary of State” substitute “borrows in connection with its functions under this Act”; and

(5) for the heading to the schedule, substitute “Borrowing and guarantees”.

#### Commencement Information

**I40** Sch. 1 para. 32 in force at 23.11.2005, see [art. 1\(1\)](#)

**33.** In Schedule 4 (Acquisition of Land)—

(1) for paragraph 1 substitute—

“**1.**—(1) The Acquisition of Land Act 1981 (referred to in this Schedule as “the 1981 Act”) applies in relation to the compulsory acquisition of land under section 21A above subject to the modifications made by the following provisions of this Part.

(2) Notwithstanding section 2 of the 1981 Act—

- (a) Schedule 1 to the 1981 Act applies only in relation to a compulsory acquisition of land under section 21A(1)(b) or (2)(b) above; and
- (b) Part 2 of the 1981 Act applies in relation to a compulsory acquisition of land made under section 21A(1)(c) or (2)(c) above as if the Assembly were an acquiring authority and the Secretary of State were the confirming authority for the purposes of that Part.

**1A.**—(1) Where a compulsory purchase order is prepared in draft by the Assembly under section 21A(1)(b) or (2)(b) above—

- (a) a notice under paragraph 3 of Schedule 1 to the 1981 Act (notice to owners, lessees and occupiers) shall be served on every relevant local authority;
- (b) each relevant local authority has a right to object in accordance with the notice; and
- (c) the references in paragraphs 4 and 4A of Schedule 1 to that Act to relevant objections include references to an objection made by any relevant local authority.”;

(2) in paragraph 3—

- (a) at the end of the opening words of sub-paragraph (1) insert “under section 21A(1)(c) or (2)(c) above”;
- (b) in sub-paragraph (1)(a) for “Acquisition of Land Act 1981” substitute “1981 Act”, and
- (c) omit sub-paragraph (2);

(3) after paragraph 3 insert new paragraph 3A—

“**3A** For the purposes of paragraphs 1A and 3 above, each of the following is a relevant local authority—

- (a) the council of any county, county borough or district in whose area the land, or any part of the land, is situated;
- (b) any joint planning board in whose district the land, or any part of the land, is situated; and
- (c) any National Park authority which is the local planning authority for a National Park in which the land, or any part of the land, is situated.”;

(4) in paragraph 7—

**Changes to legislation:** There are currently no known outstanding effects for the The Welsh Development Agency (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005. (See end of Document for details)

- (a) in sub-paragraph (3), in the words after paragraph (b) omit “by the Secretary of State”,
  - (b) after sub-paragraph (3) add a new sub-paragraph (3A) as follows—
    - “(3A) Regulations for the purposes of this paragraph are to be made by—
      - (a) the Assembly, in relation to land in Wales; and
      - (b) the Secretary of State, in relation to land in England.”,
  - (c) in sub-paragraph (5), before “the Secretary of State” each time it occurs, insert “the Assembly or”, and
  - (d) in sub-paragraph (8)(c), for “the Secretary of State” substitute “the Assembly, in relation to land in Wales, or by the Secretary of State, in relation to land in England.”;
- (5) in paragraph 11—
- (a) insert new sub-paragraph (4A)—
    - “(4A) If a counter-notice is served under sub-paragraph (3) above in relation to rights over, or apparatus on, land in Wales, the Assembly may either—
      - (a) withdraw the notice (but without prejudice to the service of a further notice); or
      - (b) invite the appropriate Minister to make an order jointly with the Assembly under this sub-paragraph embodying the provisions of the notice with or without modification.”, and
  - (b) in sub-paragraph (5) after “above” insert “in relation to rights over, or apparatus on, land in England”;
- (6) In paragraph 12—
- (a) in sub-paragraph (1)—
    - (i) before “(5)” insert “(4A) or”; and
    - (ii) for “Ministers” substitute “appropriate Minister and the Assembly, or the Ministers proposing to make the order, as the case may be”; and
  - (b) for paragraph (b) of sub-paragraph (1) substitute—
    - “(b) if any objection is made, shall consider the objection and afford to—
      - (i) the statutory undertakers and the Assembly, in the case of an order under sub-paragraph (4A) of paragraph 11 above, or
      - (ii) the statutory undertakers, in the case of an order under sub-paragraph (5) of paragraph 11 above,an opportunity of appearing before, and being heard by, a person appointed for the purpose by the Assembly and the appropriate Minister, or the Secretary of State and the appropriate Minister, as the case may be.”;
  - (c) in sub-paragraph (2), for “Ministers” substitute “appropriate Minister and the Assembly, or the Ministers proposing to make the order, as the case may be.”;
  - (d) in the opening words of sub-paragraph (3), before “11(5)” insert “11(4A) or”; and
  - (e) in paragraph (b) of sub-paragraph (3) for “they think” substitute “it thinks”;
- (7) in paragraph 13—
- (a) for paragraph (b) of sub-paragraph (6) substitute—
    - “(b) in relation to apparatus—
      - (i) in, on, over or under land in Wales requiring removal or re-siting, apply to the Assembly and the appropriate Minister for an order under this sub-paragraph conferring on the undertakers the rights claimed in the notice or

- such modified rights as the Assembly and the appropriate Minister think it appropriate to confer on them; and
- (ii) in, on, over or under land in England requiring removal or re-siting, apply to the Secretary of State and the appropriate Minister for an order under this sub-paragraph conferring on the undertakers the rights claimed in the notice or such modified rights as the Secretary of State and the appropriate Minister think it appropriate to confer on them.”;
- (b) in sub-paragraphs (7) and (8) for “an order of Ministers made under it”, substitute “an order made under it by the Assembly and the appropriate Minister, or by the Ministers, as the case may be.”; and
- (c) after sub-paragraph (8) insert—
- “(8A) References in this paragraph to the Assembly and the appropriate Minister are, if the appropriate Minister is the Assembly, to be construed as references to the Assembly alone.”;
- (8) in paragraph 15—
- (a) in sub-paragraph (3), omit “or the Secretary of State” , and
- (b) in sub-paragraph (4), for “Secretary of State” substitute “Assembly”;
- (9) in paragraph 16 for “Secretary of State” substitute “Assembly, in relation to a house in Wales, or the Secretary of State in relation to a house in England.”;
- (10) omit paragraph 17;
- (11) in paragraph 18(1) before “relating to land” insert “under this Act” and for “they” substitute “it”;
- (12) in paragraph 19—
- (a) for “Secretary of State” in each of paragraphs (a) and (b) of sub-paragraph (1) substitute “Assembly”;
- (b) in sub-paragraph 1(a), for “their functions” substitute “its functions under this Act”; and
- (c) in sub-paragraph (3), omit “, or the Secretary of State (if it was granted by him).”;
- (13) for paragraph 20 substitute—
- “**20.**—(1) The Assembly may make regulations for prescribing the form of any document required or authorised by or under this Schedule which relates to land in Wales.
- (2) The Secretary of State may make regulations for prescribing the form of any document required or authorised by or under this Schedule which relates to land in England.”;
- (14) in paragraph 21, after “under” insert “part 2 of”; and
- (15) in paragraph 22, in sub-paragraph (1), insert after “Crown land” the words “if the appropriate authority is the Assembly or, otherwise,”.

#### Commencement Information

**I41** Sch. 1 para. 33 in force at 23.11.2005, see [art. 1\(1\)](#)

SCHEDULE 2

Article 7(1)

**PART 1**

**Commencement Information**

**I42** Sch. 2 Pt. 1 in force at 23.11.2005, see [art. 1\(1\)](#)

**Primary Legislation:**

*Landlord and Tenant Act 1954 (c. 56)*

**1.** In the Landlord and Tenant Act 1954—

(1) in subsection (1A)(a) of section 59 (Compensation for exercise of powers under sections 57 and 58), after “Welsh Development Agency Act 1975,” insert “and were transferred to the National Assembly for Wales by virtue of the Welsh Development Agency (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005.”;

(2) for section 59(1A)(b) substitute—

“(b) the tenant was not the tenant of the premises when the interest by virtue of which the certificate was given was acquired by the Welsh Development Agency or, if the interest was acquired on or after 1 April 2006, by the National Assembly for Wales in exercise of functions transferred to it by the Welsh Development Agency (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005”;

(3) in subsection (1) of section 60A (Welsh Development Agency premises), for “Welsh Development Agency is the landlord, and the Secretary of State” substitute “National Assembly for Wales is the landlord by virtue of the Welsh Development Agency (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 or by virtue of the Assembly exercising its functions under that Order, and the Assembly”;

(4) in section 60A(2) for “Secretary of State” substitute “National Assembly for Wales”.

*Public Bodies (Admission to Meetings) Act 1960 (c. 67)*

**2.** In the Public Bodies (Admission to meetings) Act 1960, in paragraph 1 of the Schedule (Bodies to which this Act applies) omit paragraph (ba).

*Land Compensation Act 1961 (c. 33)*

**F13.** .....

**F1** Sch. 2 Pt. 1 para. 3 revoked (22.9.2017) by [Neighbourhood Planning Act 2017 \(c. 20\)](#), [ss. 33\(4\)\(f\), 46\(1\)](#) (with [s. 33\(5\)](#)); [S.I. 2017/936](#), [reg. 3\(c\)](#)

*Finance Act 1969 (c. 32)*

**4.** In the Finance Act 1969, in section 58 (Disclosure of information for statistical purposes by Board of Inland Revenue), in the table in subsection (4), in the first column (“Body”), for “The Welsh Development Agency” substitute “The National Assembly for Wales”.

*Employment and Training Act 1973 (c. 50)*

**5.** In section 4 (Obtaining and disclosure of information by the Commission and agencies etc) of the Employment and Training Act 1973—

- (1) in subsection (3)(e)(ii), omit “the Welsh Development Agency”;
- (2) in subsection (3)(e), after sub-paragraph (ii) add—
  - “(iii) an officer of the National Assembly for Wales who is authorised by that body to receive the information for the purposes of its functions under the Welsh Development Agency Act 1975”;
- (3) in subsection (5)(dd)—
  - (a) for “Welsh Development Agency” substitute “National Assembly for Wales”, and
  - (b) for “conferred on that Agency by the Welsh Development Agency Act 1975;” substitute “conferred on that body by the Welsh Development Agency Act 1975;”.

*House of Commons Disqualification Act 1975 (c. 24)*

**6.** In the House of Commons Disqualification Act 1975, in Part 2 of Schedule 1 (Offices disqualifying for membership), omit “The Welsh Development Agency.”.

*Race Relations Act 1976 (c. 74)*

**7.** In the Race Relations Act 1976, in Part 2 of Schedule 1A (Bodies and other persons subject to general statutory duty), omit “The Welsh Development Agency.”.

*Industry Act 1980 (c. 33)*

- 8.** In the Industry Act 1980—
- (1) omit section 2 (Transfer of property to Secretary of State); and
  - (2) omit section 2A (Stamp duty land tax).

*Acquisition of Land Act 1981 (c. 67)*

- 9.** In the Acquisition of Land Act 1981—
- (1) in subsection (3) of section 17 (Local authority and statutory undertakers land), omit “the Welsh Development Agency”; and
  - (2) in Schedule 3 (Acquisition of rights over land by the creation of new rights), in paragraph 4(3), omit “, the Welsh Development Agency”.

*Finance Act 1996 (c. 8)*

- 10.** In section 43A (Contaminated land) of the Finance Act 1996—
- (1) in subsection (5)(h), omit “the Welsh Development Agency”; and
  - (2) in subsection (6), omit the definition of “the Welsh Development Agency”.

*Government of Wales Act 1998 (c. 38)*

**11.** In the Government of Wales Act 1998 omit sections 132 (Winding-down) and 138 (Winding-down).

**Changes to legislation:** There are currently no known outstanding effects for the The Welsh Development Agency (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005. (See end of Document for details)

*Care Standards Act 2000 (c. 14)*

12. In the Care Standards Act 2000, in Schedule 2A (Persons subject to review by the commissioner under section 72B), omit paragraph 22.

*Freedom of Information Act 2000 (c. 36)*

13. In the Freedom of Information Act 2000, in Part 6 of Schedule 1 (Public authorities), omit “The Welsh Development Agency”.

*Finance Act 2003 (c. 14)*

14. In the Finance Act 2003, in Schedule 9 (Stamp duty land tax: right to buy, shared ownership leases etc), in paragraph 1(3) under the heading “New towns and development corporations”, omit “The Welsh Development Agency”.

*Public Services Ombudsman (Wales) Act 2005 (c. 10)*

15. In the Public Services Ombudsman (Wales) Act 2005, in Schedule 3 (Listed authorities), omit “The Welsh Development Agency.”.

**Subordinate Legislation:**

*Ministry of Overseas Development (Dissolution) Order 1979 (S.I.1979/1451)*

1. In the Ministry of Overseas Development (Dissolution) Order 1979, in Schedule 2, omit paragraph 5.

*Welsh Language Schemes (Public Bodies) Order 1996 (S.I. 1996/1898)*

2. In Welsh Language Schemes (Public Bodies) Order 1996, in the Schedule, omit “Welsh Development Agency” and “Awdurdod Datblygu Cymru”.

*National Assembly for Wales (Transfer of Functions) Order 1999(S.I. 1999/672)*

3. In the National Assembly for Wales (Transfer of Functions) Order 1999, in Schedule 1 in the entry for the Welsh Development Agency Act 1975—

- (a) in the first sentence (following on from the name of the Act) omit the words “the functions of the Treasury under paragraph 4 of Schedule 3 and”,
- (b) omit the second sentence (commencing “The Treasury approval requirements under paragraphs 1(2) etc”), and
- (c) except for the purposes of the statement of account for the financial year 2005 to 2006 provided for in Article 3(6) of this Order, omit the fourth sentence (commencing “The functions of the Comptroller and Auditor General etc”).

*Redundancy Payments (Continuity of Employment in Local Government, etc) (Modification) Order 1999 (S.I. 1999/2277)*

4. In the Redundancy Payments (Continuity of Employment in Local Government, etc) (Modification) Order 1999, in paragraph 23 of Schedule 1 under “Section 2— Planning and Development”, omit “The Welsh Development Agency”.

*Race Relations Act 1976 (Statutory Duties) Order 2001 (S.I. 2001/3458)*

5. In the Race Relations Act 1976 (Statutory Duties) Order 2000, in Schedule 1, omit “the Welsh Development Agency”.

*National Assembly for Wales (Disqualification) Order 2003 (S.I. 2003/437)*

6. In the National Assembly for Wales (Disqualification) Order 2003, in Part 2 of the Schedule, omit “Any member, not being also an employee, of the Welsh Development Agency”.

*Landlord and Tenant Act 1954, Part 2 (Notices) Regulations 2004 (S.I. 2004/1005)*

7. In the Landlord and Tenant Act 1954, Part 2 (Notices) Regulations 2004—

(1) in the table in Schedule 1, in the second column adjacent to the numbers 16 and 17, after “Welsh Development Agency” insert “Act 1975”; and

(2) in Schedule 2, in forms 16 and 17—

(a) in the headings to the forms after “Welsh Development Agency” insert “Act 1975”,

(b) in paragraph 4(a) of the notes to form 16 and in paragraph 11(a) of the notes to form 17, after “Welsh Development Agency Act 1975”, insert “and were transferred to the National Assembly for Wales by virtue of the Welsh Development Agency (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005.”, and

(c) for paragraph 4(b) of the notes to form 16 and for paragraph 11(b) of the notes to form 17, substitute—

“you were not the tenant of the premises when the interest by virtue of which the certificate referred to in paragraph 3 of this notice was given was acquired by the Welsh Development Agency or, if the interest was acquired on or after 1 April 2006, by the National Assembly for Wales in exercise of functions transferred to it by the Welsh Development Agency (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005.”

## PART 2

### Commencement Information

I43 Sch. 2 Pt. 2 in force at 23.11.2005, see [art. 1\(1\)](#)

### Repeals and Revocations

#### The Industry Act 1981 (c. 6) is repealed.

The following are revoked—

1. Welsh Development Agency (Compensation) Regulations 1976 (S.I. 1976/2107).
2. Pensions Increase (Welsh Development Agency) Regulations 1978 (S.I. 1978/211).
3. Land Authority for Wales (Transfer of Staff) Order 1998 (S.I. 1998/2194).
4. Development Board for Rural Wales (Transfer of Staff) Order 1998 (S.I. 1998/2195).
5. Welsh Development Agency (Membership) Order 1998 (SI. 1998/2490).

**Changes to legislation:** There are currently no known outstanding effects for the The Welsh Development Agency (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005. (See end of Document for details)

6. Welsh Development Agency (Financial Limit) Order 2000 (S.I. [2000/1147 \(W.82\)](#)).
7. Welsh Development Agency (Financial Limit) Order 2004 (S.I. [2004/1826 \(W.202\)](#)).

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## EXPLANATORY NOTE

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

Section 28 of the Government of Wales Act 1998 gives the National Assembly for Wales (the “Assembly”) powers to reform certain public bodies in Wales listed in Schedule 4 to that Act. The section includes the power to transfer functions and to abolish such bodies where all their functions have been transferred.

This Order transfers the functions, property, rights and liabilities of the Welsh Development Agency (the “Agency”) to the Assembly, provides for the transfer of staff from the Agency to the Assembly and makes appropriate consequential, incidental, transitional and supplementary provisions. It also abolishes the Agency.

**Article 2** provides for the transfer of the Agency’s functions to the Assembly on *1 April 2006*. This article also provides for the transfer of the Agency’s staff, property, rights and liabilities to the Assembly. These include where relevant the property, rights and liabilities transferred to the Agency from the Welsh Industrial Estates Corporation under section 7 of the Welsh Development Agency Act 1975 (c. 70) (the “1975 Act”) and the land (and rights and liabilities relating to it) held under the Local Employment Act 1972 (c. 5) transferred to the Agency under section 8 of the 1975 Act. Staff are transferred on the basis of the principles established by the Transfer of Undertakings (Protection of Employment) Regulations 1981 (SI 1981/1794).

**Article 3** makes certain transitional provisions relating to the property, rights and liabilities and for the substitution of the Assembly for the Agency in all relevant instruments, contracts or legal proceedings.

It also provides that the Agency’s statement of account for the financial year 2005-2006 is to be prepared by the Assembly. The statement of account for 2005-2006 is also to be sent to the Auditor General for Wales and copies subsequently laid before the Assembly together with the Auditor General’s report in the usual way.

**Article 4** makes provision to ensure that the transfer of property from the Agency to the Assembly has a neutral effect in terms of the calculation of industrial building allowances under the Capital Allowances Act 2001.

**Article 5** provides that after the Agency’s functions, property, rights and liabilities have all been transferred to the Assembly, the Agency is abolished.

**Article 6** makes formal provision to reflect joint working between the Assembly and the Agency for the purpose of facilitating the transfer of functions.

**Article 7** brings into effect on 1 April 2006 Schedules 1 and 2 to the Order, which make amendments to primary and secondary legislation that are consequential upon and incidental to the transfer of functions and abolition of the Agency. The most substantive changes are to the 1975 Act.

Compulsory purchase orders made by the Assembly under powers contained in the 1975 Act are divided into two categories. Where the land is in Wales, the procedures followed will be those in Schedule 1 to the Acquisition of Land Act 1981. Where the land is in England (but nevertheless

relates to the Assembly's functions under the Act) the procedure followed will be that in Part 2 of the Acquisition of Land Act 1981, reflecting the requirement in the case of land in England to obtain the consent of the Secretary of State.

References to the functions of the "Secretary of State" have been amended to being functions of the "Assembly" on the face of the 1975 Act where appropriate so as to reflect the effect of the National Assembly for Wales (Transfer of Functions) Order 1999 (SI 1999/672).

However, in connection with the exercise by the Assembly of any of its functions, references to a Minister of the Crown or a government department in other enactments continue to be construed where necessary, as being or including the Assembly in accordance with section 43 of the Government of Wales Act 1998.

**Article 8** makes saving provisions in respect of any planning permission deemed to have been granted by virtue of section 7 of the 1975 Act for land transferred to the Agency from the Welsh Industrial Estates Corporation and for the continuity of employment of any members of Agency staff who had originally had their employment transferred from that Corporation under that section.

**Changes to legislation:**

There are currently no known outstanding effects for the The Welsh Development Agency (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005.