

*Status: Point in time view as at 25/07/2006.*

*Changes to legislation: Government of Wales Act 2006, SCHEDULE 4 is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 4

Section 88

#### TRANSFERS OF MINISTERIAL PROPERTY, RIGHTS AND LIABILITIES

##### *General transfer of property, rights and liabilities*

- 1 (1) The property, rights and liabilities to which, at the coming into force of an Order in Council under section 58, a Minister of the Crown is entitled or subject in connection with any function exercisable by the Minister of the Crown and transferred by the Order in Council are transferred to and vest in the transferee of the function.
- (2) In this Schedule “the transferee”, in relation to a function transferred by an Order in Council under section 58, means whichever of the Welsh Ministers, the First Minister or the Counsel General may exercise the function by virtue of the Order in Council.
- (3) Anything (including legal proceedings) which relates to—
- (a) any function exercisable by a Minister of the Crown which is transferred by an Order in Council under section 58, or
  - (b) any property, rights or liabilities transferred by sub-paragraph (1) as the result of the transfer of any such function by such an Order in Council,
- and which is in the process of being done by or in relation to the Minister of the Crown immediately before the coming into force of the Order in Council may be continued by or in relation to the transferee of the function.
- (4) Anything which was done by a Minister of the Crown for the purpose of or in connection with—
- (a) any function exercisable by the Minister of the Crown which is transferred by an Order in Council under section 58, or
  - (b) any property, rights or liabilities transferred by sub-paragraph (1) as the result of the transfer of any such function by such an Order in Council,
- and which is in effect immediately before the coming into force of the Order in Council has effect as if done by the transferee of the function.
- (5) In any instruments, contracts or legal proceedings which relate to—
- (a) any function exercisable by a Minister of the Crown which is transferred by an Order in Council under section 58, or
  - (b) any property, rights or liabilities transferred by sub-paragraph (1) as the result of the transfer of any such function by such an Order in Council,
- and which are made or commenced before the coming into force of the Order in Council, the transferee of the function is substituted for the Minister of the Crown.

#### **Modifications etc. (not altering text)**

- C1 Sch. 4 para. 1(1) excluded (1.4.2009) by [The Welsh Ministers \(Transfer of Functions\) Order 2009 \(S.I. 2009/703\)](#), [art. 3](#)

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- C2** Sch. 4 para. 1(1) excluded (31.3.2010) by [The Welsh Zone \(Boundaries and Transfer of Functions\) Order 2010 \(S.I. 2010/760\)](#), arts. 1(3), 8
- C3** Sch. 4 para. 1(1) excluded (31.12.2011) by [The Welsh Ministers \(Transfer of Functions\) \(No. 2\) Order 2009 \(S.I. 2009/3019\)](#), art. 7

**Commencement Information**

- I1** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

- 2 (1) An Order in Council under section 58 may provide that all or any of the provisions of paragraph 1—
- (a) do not apply in relation to the transfer of functions by the Order in Council or to the property, rights and liabilities connected with the functions,
  - (b) are to apply only in relation to the transfer of particular functions by the Order in Council or to particular property, rights or liabilities connected with the functions transferred by the Order in Council,
  - (c) do not apply in relation to the transfer of particular functions by the Order in Council or to particular property, rights or liabilities connected with the functions transferred by the Order in Council, or
  - (d) apply with modifications in relation to the transfer of a particular function by the Order in Council or to particular property, rights or liabilities connected with the function transferred by the Order in Council in a case where, by virtue of provision made under section 58(2), there is more than one transferee of that function.
- (2) Paragraph 1 does not apply to rights or liabilities relating to the employment of persons in Crown employment (as defined in section 191(3) of the Employment Rights Act 1996 (c. 18)).

**Commencement Information**

- I2** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Power to make specific transfers etc.*

- 3 (1) The Secretary of State may by order provide for the transfer to the Welsh Ministers, the First Minister or the Counsel General of—
- (a) any specified property, rights or liabilities, or
  - (b) property, rights or liabilities of any specified description, to which a Minister of the Crown is entitled or subject.
- (2) An order under sub-paragraph (1) may provide for the transfer of any property, rights or liabilities to have effect subject to exceptions or reservations specified in or determined under the order.
- (3) An order under sub-paragraph (1) may provide—
- (a) for the creation in favour of a Minister of the Crown of interests in, or rights over, property transferred to the Welsh Ministers, the First Minister or the Counsel General,
  - (b) for the creation in favour of the Welsh Ministers, the First Minister or the Counsel General of interests in, or rights over, property retained by a Minister of the Crown, or

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- (c) for the creation of new rights and liabilities between the Welsh Ministers, the First Minister or the Counsel General on the one hand and a Minister of the Crown on the other.
- (4) The Secretary of State may by order make provision for the continuation by or in relation to the Welsh Ministers, the First Minister or the Counsel General of—
  - (a) any specified thing, or
  - (b) anything of a specified description,commenced by or in relation to a Minister of the Crown.
- (5) The Secretary of State may by order make provision for—
  - (a) any specified thing, or
  - (b) anything of a specified description,done by a Minister of the Crown to have effect as if done by the Welsh Ministers, the First Minister or the Counsel General.
- (6) The Secretary of State may by order make provision for the substitution of the Welsh Ministers, the First Minister or the Counsel General for any Minister of the Crown in—
  - (a) any specified instrument, contract or legal proceedings, or
  - (b) any instrument, contract or legal proceedings of a specified description.
- (7) An order under this paragraph may be made in consequence of the making of an Order in Council under section 58 or in any other circumstances in which the Secretary of State considers it appropriate to make such an order.
- (8) A statutory instrument containing an order under this paragraph is subject to annulment in pursuance of a resolution of either House of Parliament.

**Commencement Information**

**I3** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

*Supplementary*

- 4 (1) A certificate issued by the Secretary of State that any property has been transferred by—
  - (a) paragraph 1, or
  - (b) an order under paragraph 3,is conclusive evidence of the transfer.
- (2) Paragraph 1, and orders under paragraph 3, have effect in relation to property, rights or liabilities to which they apply in spite of any provision (of whatever nature) which would otherwise prevent or restrict the transfer of the property, rights or liabilities.

**Commencement Information**

**I4** This provision in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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