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STATUTORY INSTRUMENTS

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**2003 No. 3191**

**MINISTERS OF THE CROWN**

**The Transfer of Functions (Children,  
Young People and Families) Order 2003**

*Made* - - - - *10th December 2003*  
*22nd December*  
*Laid before Parliament* *2003*  
*Coming into force* - - *12th January 2004*

At the Court at Buckingham Palace, the 10th day of December 2003

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in pursuance of section 1 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 hereby ordered, as follows:

**Citation and commencement**

1.—(1) This Order may be cited as the Transfer of Functions (Children, Young People and Families) Order 2003.

(2) This Order comes into force on 12th January 2004.

**Interpretation**

2.—(1) In this Order “instrument”, without prejudice to the generality of that expression, includes in particular judgments, decrees, orders, rules, regulations, schemes, bye-laws, awards, contracts and other agreements, memoranda and articles of association, warrants, certificates and other documents.

(2) Any reference in this Order 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 of functions from the Lord Chancellor**

3. The functions of the Lord Chancellor under—

(a) section 4(1B) of the Children Act 1989(2),

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(1) 1975 c. 26.

(2) 1989 c. 41.

- (b) section 22 of the Family Law Act 1996<sup>(3)</sup>,
- (c) section 62(3A) of the Justices of the Peace Act 1997<sup>(4)</sup>, and
- (d) sections 12, 19, 20 and 23 of, and Schedules 2 and 3 to, the Criminal Justice and Court Services Act 2000<sup>(5)</sup>,

are transferred to the Secretary of State.

### **Property, rights and liabilities**

4. All property, rights and liabilities to which the Lord Chancellor is entitled or subject at the coming into force of this Order in connection with the functions transferred by article 3 are transferred to the Secretary of State for Education and Skills.

### **Supplementary**

5.—(1) This Order does not affect the validity of anything done (or having effect as if done) by or in relation to the Lord Chancellor before the coming into force of this Order.

(2) Anything (including legal proceedings) which, at the coming into force of this Order, is in the process of being done by or in relation to the Lord Chancellor may, so far as it relates to anything transferred by article 3 or 4, be continued by or in relation to the Secretary of State for Education and Skills.

(3) Anything done (or having effect as if done) by or in relation to the Lord Chancellor in connection with anything transferred by article 3 or 4 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 Education and Skills.

(4) Documents or forms printed for use in connection with the functions transferred by article 3 may be used in connection with those functions even though they contain, or are to be read as containing, references to the Lord Chancellor, the Lord Chancellor's Department or an officer of the Lord Chancellor; and for the purposes of the use of any such documents or forms after the coming into force of this Order, those references are to be read as references to the Secretary of State for Education and Skills, the Department for Education and Skills or an officer of the Secretary of State for Education and Skills (as appropriate).

(5) Any enactment or instrument passed or made before the coming into force of this Order has effect—

- (a) so far as is necessary for the purposes of or in consequence of article 3, as if references to (and references which are to be read as references to) the Lord Chancellor, the Lord Chancellor's Department or an officer of the Lord Chancellor were references to the Secretary of State, his department or an officer of his (as appropriate), and
- (b) so far as is necessary for the purposes of or in consequence of article 4, as if references to (and references which are to be read as references to) the Lord Chancellor, the Lord Chancellor's Department or an officer of the Lord Chancellor were references to the Secretary of State for Education and Skills, the Department for Education and Skills or an officer of the Secretary of State for Education and Skills (as appropriate).

### **Consequential amendments**

6. The Schedule (consequential amendments) has effect.

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(3) 1996 c. 27.  
(4) 1997 c. 25.  
(5) 2000 c. 43.

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

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*A. K. Galloway*  
Clerk of the Privy Council

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## SCHEDULE

Article 6

### CONSEQUENTIAL AMENDMENTS

#### *Children Act 1989 (c. 41)*

1. In the Children Act 1989, in section 4(1B) (registration as father), for “Lord Chancellor” substitute “Secretary of State”.

#### *Family Law Act 1996 (c. 27)*

2. In the Family Law Act 1996, in section 22 (funding for marriage support services) for “Lord Chancellor” in each place substitute “Secretary of State”.

#### *Justices of the Peace Act 1997 (c. 25)*

3. In the Justices of the Peace Act 1997, in section 62(3A) (inspection of CAFCASS) for “Lord Chancellor” in each place substitute “Secretary of State”.

#### *Criminal Justice and Court Services Act 2000 (c. 43)*

4.—(1) The Criminal Justice and Court Services Act 2000 is amended as follows.

(2) In sections 19, 20 and 23 and in paragraph 5 of Schedule 3 (Probation Service and CAFCASS property and staff), for “Minister” or “appropriate Minister” in each place substitute “Secretary of State”.

(3) In section 25 (interpretation)—

(a) omit the definition of “appropriate Minister”, and

(b) in the definition of “regulations”, for paragraphs (a) and (b) substitute—

“(a) in the case of regulations under section 15, regulations made by the Lord Chancellor, and

(b) in any other case, regulations made by the Secretary of State.”

(4) In Schedule 2 to that Act (CAFCASS), for “Lord Chancellor” in each place, substitute “Secretary of State”.

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### EXPLANATORY NOTE

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

This Order in Council is made under section 1 of the Ministers of the Crown Act 1975.

Article 3 transfers to the Secretary of State the functions of the Lord Chancellor under the enactments listed there. This is with a view to the functions being exercised by the Secretary of State for Education and Skills, and accordingly article 4 transfers to that Secretary of State any property, rights and liabilities to which the Lord Chancellor is entitled or subject in connection with the functions transferred.

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Article 5 contains supplementary provision in connection with the transfers. Article 6 and the Schedule make consequential amendments to legislation.

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