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STATUTORY INSTRUMENTS

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**2007 No. 2128**

**The Secretary of State for Justice Order 2007**

**Citation and commencement**

- 1.—(1) This Order may be cited as the Secretary of State for Justice Order 2007.
- (2) This Order comes into force on 22nd August 2007.

**Interpretation**

2. In this Order—
  - (a) “instrument” 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;
  - (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.

**Incorporation of the Secretary of State for Justice**

- 3.—(1) The person who at the coming into force of this Order is the Secretary of State for Justice and any successor to that person is by that name a corporation sole.
- (2) The corporate seal of the Secretary of State for Justice—
  - (a) is to be authenticated by the signature of a Secretary of State or a person authorised by a Secretary of State to act in that behalf, and
  - (b) is to be officially and judicially noticed.
- (3) Every document purporting to be an instrument made or issued by the Secretary of State for Justice and to be—
  - (a) sealed with the corporate seal of that Secretary of State authenticated in the manner provided for by paragraph (2), or
  - (b) signed or executed by a person authorised by a Secretary of State to act in that behalf,is to be received in evidence and to be deemed to be so made or issued without further proof, unless the contrary is shown.
- (4) A certificate signed by the Secretary of State for Justice that an instrument purporting to be made or issued by—
  - (a) the Secretary of State for Justice, or
  - (b) the Secretary of State for Constitutional Affairs, or
  - (c) the Secretary of State for the Home Department,was so made or issued is conclusive evidence of that fact.

(5) The Documentary Evidence Act 1868(1) applies in relation to the Secretary of State for Justice—

- (a) as if references to regulations and orders included references to any document, and
- (b) as if the officers mentioned in column 2 of the Schedule included any officer authorised to act on behalf of the Secretary of State.

**Transfer of functions from Secretary of State etc.**

4.—(1) The functions of the Secretary of State under the following enactments are transferred to the Lord Chancellor—

- (a) in the Magistrates' Courts Act 1980(2), section 125A(3)(a);
- (b) in the Courts Act 2003(3), sections 70(2)(a), 72(3), 72A(4) and 73(1);
- (c) in the Criminal Justice Act 2003(4), sections 167(1)(b) and (c) and (9), 168(1)(c) and (5), 170(8)(b)(ii), 171(3)(a) and 173.

(2) The functions of the Secretary of State under the following enactments are transferred to the Secretary of State for Justice—

- (a) in the Domestic Violence, Crime and Victims Act 2004(5), sections 32, 33, 48, 49, 53, 54 and 55(1) to (6);
- (b) in Schedule 8 to that Act, paragraphs 1, 2, 8 and 9.

(3) The function of the Secretary of State for the Home Department under paragraph 1 of Schedule 1 to the Church Commissioners Measure 1947(6) is transferred to the Lord Chancellor.

**Transfer of functions from Lord Chancellor**

5.—(1) The function of the Lord Chancellor under section 167(1)(c) of the Criminal Justice Act 2003 is transferred to the Secretary of State.

(2) The functions of the Lord Chancellor under the following enactments are transferred to the Secretary of State for the Home Department—

- (a) in the Domestic Violence, Crime and Victims Act 2004, sections 33, 48, 49, 53, 54 and 55;
- (b) in Schedule 8 to that Act, paragraphs 1, 2, 8 and 9.

**Transfer of property etc. to Secretary of State for Justice**

6.—(1) There are transferred to the Secretary of State for Justice—

- (a) all property which, by virtue of section 35 of the Prison Act 1952(7), is vested in the Secretary of State at the coming into force of this Order, and
- (b) all rights and liabilities to which the Secretary of State is entitled or subject at that time in connection with that property.

(2) There are transferred to the Secretary of State for Justice all property, rights and liabilities not falling within paragraph (1) 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—

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(1) 1868 c. 37.  
(2) 1980 c. 43.  
(3) 2003 c. 39.  
(4) 2003 c. 44.  
(5) 2004 c. 28.  
(6) 1947 No. 2.  
(7) 1952 c. 52.

- (a) the functions transferred by article 4(2), or
- (b) the functions that were immediately before 9th May 2007 entrusted to the Secretary of State for the Home Department and that have been entrusted to the Secretary of State for Justice before the making of this Order.

(3) There are transferred to the Secretary of State for Justice all property, rights and liabilities to which the Secretary of State for Constitutional Affairs is entitled or subject at the coming into force of this Order.

### **Supplementary**

7.—(1) This article applies to—

- (a) the functions transferred by article 4(1);
- (b) the functions transferred by article 4(2);
- (c) the function transferred by article 4(3);
- (d) the function transferred by article 5(1);
- (e) the functions transferred by article 5(2);
- (f) anything transferred by article 6(1);
- (g) anything transferred by article 6(2);
- (h) the functions mentioned in article 6(2)(b);
- (i) anything transferred by article 6(3);
- (j) the functions that were immediately before 9th May 2007 entrusted to the Secretary of State for Constitutional Affairs and that have been entrusted to the Secretary of State for Justice before the making of this Order.

(2) In this article—

- (a) “the transferor” means—
  - (i) in relation to anything within paragraph (1)(a), (b) or (f), the Secretary of State;
  - (ii) in relation to anything within paragraph (1)(c), (g) or (h), the Secretary of State for the Home Department;
  - (iii) in relation to anything within paragraph (1)(d) or (e), the Lord Chancellor;
  - (iv) in relation to anything within paragraph (1)(i) or (j), the Secretary of State for Constitutional Affairs;
- (b) “the transferee” means—
  - (i) in relation to anything within paragraph (1)(a) or (c), the Lord Chancellor;
  - (ii) in relation to anything within paragraph (1)(b), (f), (g), (h), (i) or (j), the Secretary of State for Justice;
  - (iii) in relation to anything within paragraph (1)(d), the Secretary of State;
  - (iv) in relation to anything within paragraph (1)(e), the Secretary of State for the Home Department.

(3) This Order does not affect the validity of anything done (or having effect as if done) by or in relation to any of the transferors before the coming into force of this Order.

(4) 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 transferor may, so far as it relates to anything to which this article applies, be continued by or in relation to the transferee.

(5) Anything done (or having effect as if done) by or in relation to the transferor in connection with anything to which this article applies 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 transferee.

(6) Documents or forms printed for use in connection with functions to which this article applies may be used in connection with those functions even though they contain, or are to be read as containing, references to the transferor, or to the department or an officer of the transferor; 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 transferee, or to the department or an officer of the transferee (as appropriate).

(7) Any enactment or instrument passed or made before the coming into force of this Order has effect, so far as is necessary for the purposes of or in consequence of the transfer or entrusting to the transferee of anything to which this article applies, as if references to (and references which are to be read as references to) the transferor, or to the department or an officer of the transferor, were or included references to the transferee, or to the department or an officer of the transferee (as appropriate).

### **Consequential amendments**

8. The Schedule (consequential amendments) has effect.

*Judith Simpson*  
Clerk of the Privy Council