
STATUTORY INSTRUMENTS

2010 No. 630

**The Marine and Coastal Access Act 2009 (Commencement
No. 1, Consequential, Transitional and Savings
Provisions) (England and Wales) Order 2010**

PART 2

South Wales Sea Fisheries Committee

Transfer of employees

5.—(1) Subject to the provisions of this article, all relevant employees transfer to and become, on the transfer date, members of the staff of the Welsh Assembly Government.

(2) The contract of employment of a relevant employee whose employment is transferred under paragraph (1)—

- (a) is not terminated by the transfer; and
- (b) has effect on and after the transfer date as if that employee had become a member of the staff of the Welsh Assembly Government on the date that that employee's employment by or on behalf of the South Wales Sea Fisheries Committee began.

(3) Without prejudice to paragraph (2)—

- (a) all the rights, powers, duties and liabilities under, or in connection with, the contract of employment of a relevant employee whose employment is transferred under paragraph (1), transfer to and vest in the Welsh Ministers on the transfer date; and
- (b) anything done before that date by, or in relation to, the South Wales Sea Fisheries Committee in respect of that contract of employment or that employee, is deemed on and after the transfer date to have been done by, or in relation to, the Welsh Ministers.

(4) Notwithstanding regulation 3(5) of the 2006 Regulations, the transfer effected by articles 5 and 6(1) is to be treated for all purposes as a relevant transfer within the meaning of the 2006 Regulations.

(5) Where a relevant employee becomes a member of the staff of the Welsh Assembly Government pursuant to paragraph (1), the period of employment with that employee's employer immediately before the transfer date—

- (a) counts as a period of employment as a member of the staff of the Welsh Assembly Government; and
- (b) is to be treated as continuous employment as a member of the staff of the Welsh Assembly Government for the purposes of section 218(3) of the Employment Rights Act 1996(1).

(6) Nothing in this article affects any right a person has to terminate a contract of employment if (apart from the change of employer) a substantial detrimental change is made in that person's working conditions.

(7) Notwithstanding regulation 4(7) of the 2006 Regulations, paragraphs (1) to (5) do not transfer a relevant employee's contract of employment, or the rights, powers, duties and liabilities under or in connection with it, if that employee objected to that transfer of that employee's contract of employment and had informed the Welsh Ministers in writing of that objection on or before 31st March 2010.

(8) Notwithstanding regulation 4(8) of the 2006 Regulations, where an employee has objected in accordance with paragraph (7)—

- (a) that employee's contract of employment is terminated on the transfer date; and
- (b) that employee is not to be treated for any purposes as having been dismissed.

Transfer of property, rights and liabilities

6.—(1) Save as provided by articles 5 and 7, on the transfer date—

- (a) all the property held by, on behalf of or for the purposes of the South Wales Sea Fisheries Committee immediately before that date; and
- (b) all rights and liabilities to which the South Wales Sea Fisheries Committee was entitled or subject immediately before that date,

are transferred to and vest in the Welsh Ministers.

(2) A certificate issued by the Welsh Ministers that any property has been transferred by paragraph (1) is conclusive evidence of the transfer.

(3) Paragraph (1) has effect in relation to the property, rights and liabilities to which it applies in spite of any provision (of whatever nature) which would prevent or restrict the transfer of those property, rights or liabilities otherwise than by that paragraph.

(4) The liabilities falling within paragraph (1)(b) include liabilities in respect of persons formerly employed by or on behalf of the South Wales Sea Fisheries Committee.

The Burry Inlet Cockle Fishery Order 1965

7.—(1) Article 6(1) does not apply to any functions, property, rights or liabilities transferred by paragraph (2).

(2) On the transfer date—

- (a) the functions that were exercisable by the South Wales Sea Fisheries Committee immediately before the transfer date; and
- (b) the property, rights and liabilities to which the South Wales Sea Fisheries Committee was entitled or subject immediately before the transfer date,

pursuant to the Burry Inlet Cockle Fishery Order 1965(2) are transferred to the Environment Agency.

(3) On the transfer date the Burry Inlet Cockle Fishery Order 1965 is amended as follows—

- (a) in article 2(1), for “Local Sea Fisheries Joint Committee for the South Wales Sea Fisheries District” substitute “Environment Agency”; and
- (b) in each place where it occurs, for “Committee” substitute “Agency”.

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

Transitional provisions

8.—(1) Nothing in article 3, 5, 6 or 7 affects the validity of anything done by or in relation to the South Wales Sea Fisheries Committee before the transfer date.

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

- (a) relates to any of the functions, other than those transferred by article 7(2), that were exercisable by the South Wales Sea Fisheries Committee immediately before the transfer date or to any property, rights or liabilities transferred by article 5 or 6(1);
- (b) is in the process of being done by or in relation to the South Wales Sea Fisheries Committee immediately before the transfer date; and
- (c) could lawfully be undertaken by or in relation to the Welsh Ministers.

(3) Anything—

- (a) done by the South Wales Sea Fisheries Committee for the purpose of or in connection with any of the functions, other than those transferred by article 7(2), which were exercisable by it immediately before the transfer date or for the purpose of or in connection with any property, rights or liabilities transferred by article 5 or 6(1); and
- (b) in effect immediately before the transfer date,

has effect on and after the transfer date as if done by the Welsh Ministers to the extent that the Welsh Ministers could lawfully undertake that action.

(4) The Welsh Ministers are substituted for the South Wales Sea Fisheries Committee in any instruments or contracts which are either made or commenced before the transfer date and which relate to any of the functions, other than those transferred by article 7(2), that were exercisable by the South Wales Sea Fisheries Committee immediately before the transfer date.

(5) There may be continued by or in relation to the Environment Agency anything (including legal proceedings) which—

- (a) relates to any of the functions, property, rights or liabilities transferred by article 7(2);
- (b) is in the process of being done by or in relation to the South Wales Sea Fisheries Committee immediately before the transfer date; and
- (c) could lawfully be undertaken by or in relation to the Environment Agency.

(6) Anything which—

- (a) was done by the South Wales Sea Fisheries Committee for the purpose of or in connection with any of the functions, property, rights or liabilities transferred by article 7(2); and
- (b) is in effect immediately before the transfer date,

has effect on and after the transfer date as if done by the Environment Agency to the extent that the Environment Agency could lawfully undertake that action.