

EXPLANATORY MEMORANDUM TO
THE TRANSFER OF FUNCTIONS (DIGITAL GOVERNMENT) ORDER 2018
2018 No. 526

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Cabinet Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 This Order makes provision for the transfer of some of the functions related to information sharing within Part 5 of the Digital Economy Act 2017 from the Minister for the Cabinet Office to the Secretary of State in order for certain functions held by the Secretary of State to cease to be exercisable concurrently with the Minister for the Cabinet Office and for a function to transfer from the Minister for the Cabinet Office to the Secretary of State.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 Part 5 of the Digital Economy Act 2017 makes provision for information sharing and access to information in relation to public service delivery, civil registration, debt, fraud, research, revenue authorities and statistics.
- 4.2 Ministerial responsibility for the policy co-ordination of Part 5 of the Digital Economy Act 2017 transferred from the Government Digital Service (part of the Cabinet Office) to the Department for Digital, Culture, Media and Sport on 1 April 2018. It is therefore appropriate for a function within Part 5 of the Digital Economy Act 2017 to be transferred from the Minister for the Cabinet Office to the Secretary of State and for other functions that the Minister for the Cabinet Office is no longer required to exercise to be taken out of his name. These functions cannot be transferred by administrative action, which is why an Order is required under section 1 of the Ministers of the Crown Act 1975.
- 4.3 Section 1 of the Ministers of the Crown Act 1975 enables Her Majesty by Order in Council to provide for the transfer of functions between Ministers. The Order may make incidental, supplemental and consequential provision, including provision that amends legislation relating to the transferred function.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is all of the United Kingdom.
- 5.2 The territorial application of this instrument is all of the United Kingdom.

6. European Convention on Human Rights

- 6.1 David Lidington, Minister for the Cabinet Office and Chancellor of the Duchy of Lancaster, has made the following statement regarding Human Rights:

In my view the provisions of the Transfer of Functions (Digital Government) Order 2018 are compatible with the Convention rights.

7. Policy background

What is being done and why

- 7.1 Ministerial responsibility for the policy co-ordination of Part 5 of the Digital Economy Act 2017 transferred from the Government Digital Service (part of the Cabinet Office) to the Department for Digital, Culture, Media and Sport on 1 April 2018.
- 7.2 This Order therefore seeks to transfer a function that is not already available to the Secretary of State so that it may be exercised by the Secretary of State for Digital, Culture, Media and Sport, while taking other functions out of the name of the Minister for the Cabinet Office, since he is no longer required to exercise them.
- 7.3 These changes affect Chapter 1 (Public Service Delivery), reflecting the fact that policy on information sharing for public service delivery will be led by the Department for Digital, Culture, Media and Sport (or the relevant devolved Ministers where appropriate).
- 7.4 Cabinet Office will continue to lead on the policy within Chapters 3 (Debt Owed to the Public Sector) and 4 (Fraud Against the Public Sector) of Part 5. The powers and duties within these chapters will therefore continue to remain exercisable by the Minister for the Cabinet Office or, where appropriate, will continue to be shared with the Secretary of State and/or the relevant devolved Ministers, including the duty to review the powers three years after coming into force.
- 7.5 The Minister for the Cabinet Office exercises some residual ministerial functions for the UK Statistics Authority as a statutory non-ministerial department under the Statistics and Registration Service Act 2007. Therefore the consultation powers in Chapters 5 (Sharing for Research Purposes) and 7 (Statistics) of Part 5 will remain in the name of the Minister for the Cabinet Office.

Consolidation

- 7.6 No consolidation is required as a result of this Order.

8. Consultation outcome

- 8.1 There has not been a public consultation on this Order as no impact on business or the voluntary sector is foreseen.

9. Guidance

- 9.1 No guidance has been prepared in respect of this Order.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 There is no impact on the public sector.
- 10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

- 11.1 The Order does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

- 12.1 No monitoring or review of this Order is planned.

13. Contact

- 13.1 Sue Bateman at the Department for Digital, Culture, Media and Sport (telephone: 07867162335 or email: sue.bateman@culture.gov.uk) can answer any queries regarding the instrument.