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STATUTORY INSTRUMENTS

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**2007 No. 3224**

**The Secretaries of State for Children, Schools and Families, for Innovation, Universities and Skills and for Business, Enterprise and Regulatory Reform Order 2007**

**Citation and commencement**

1.—(1) This Order may be cited as the Secretaries of State for Children, Schools and Families, for Innovation, Universities and Skills and for Business, Enterprise and Regulatory Reform Order 2007.

(2) This Order comes into force on 12th December 2007.

**Interpretation**

2.—(1) In this Order “instrument” includes, in particular, Royal Charters, Royal Warrants, Orders in Council, Letters Patent, judgments, decrees, orders, rules, regulations, schemes, bye-laws, awards, licences, authorisations, consents, approvals, contracts and other agreements, memoranda and articles of association, certificates, deeds and other documents.

(2) In this Order a reference to a function of a Minister is to be read, in the case of a function which is exercisable by the Minister jointly with another person or is otherwise shared by the Minister, as a reference to the Minister’s share of that function.

**Incorporation of the Secretary of State for Children, Schools and Families**

3.—(1) The person who at the coming into force of this Order is the Secretary of State for Children, Schools and Families and any successor to that person is by that name a corporation sole.

(2) The corporate seal of the Secretary of State for Children, Schools and Families—

- (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 Children, Schools and Families 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 Children, Schools and Families that an instrument purporting to be made or issued by—

- (a) the Secretary of State for Children, Schools and Families, or
- (b) the Secretary of State for Education and Skills,

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 Children, Schools and Families—

- (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.

#### **Incorporation of the Secretary of State for Innovation, Universities and Skills**

4.—(1) The person who at the coming into force of this Order is the Secretary of State for Innovation, Universities and Skills and any successor to that person is by that name a corporation sole.

- (2) The corporate seal of the Secretary of State for Innovation, Universities and Skills—
  - (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 Innovation, Universities and Skills 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 Innovation, Universities and Skills that an instrument purporting to be made or issued by—

- (a) the Secretary of State for Innovation, Universities and Skills,
- (b) the Secretary of State for Education and Skills, or
- (c) the Secretary of State for Trade and Industry,

was so made or issued is conclusive evidence of that fact.

(5) The Documentary Evidence Act 1868 applies in relation to the Secretary of State for Innovation, Universities and Skills—

- (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.

#### **Incorporation of the Secretary of State for Business, Enterprise and Regulatory Reform**

5.—(1) The person who at the coming into force of this Order is the Secretary of State for Business, Enterprise and Regulatory Reform and any successor to that person is by that name a corporation sole.

- (2) The corporate seal of the Secretary of State for Business, Enterprise and Regulatory Reform—
  - (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 Business, Enterprise and Regulatory Reform 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 Business, Enterprise and Regulatory Reform that an instrument purporting to be made or issued by—

- (a) the Secretary of State for Business, Enterprise and Regulatory Reform, or
- (b) the Secretary of State for Trade and Industry,

was so made or issued is conclusive evidence of that fact.

(5) The Documentary Evidence Act 1868 applies in relation to the Secretary of State for Business, Enterprise and Regulatory Reform—

- (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 the Secretary of State for Education and Skills to the Secretary of State for Children, Schools and Families**

6. The functions of the Secretary of State for Education and Skills (except so far as transferred by article 8(2)(a)) are transferred to the Secretary of State for Children, Schools and Families.

### **Other supplemental provision in relation to the Secretary of State for Children, Schools and Families**

7.—(1) For the purposes of this article a function is a relevant function so far as—

- (a) it is transferred by article 6, or
- (b) it is within paragraph (2).

(2) A function is within this paragraph if—

- (a) immediately before 28th June 2007 it was entrusted to the Secretary of State for Education and Skills, and
- (b) before the making of this Order it has been entrusted to the Secretary of State for Children, Schools and Families.

(3) There are transferred to the Secretary of State for Children, Schools and Families all property, rights and liabilities to which the Secretary of State for Education and Skills is entitled or subject at the coming into force of this Order in connection with any relevant function.

(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 Secretary of State for Education and Skills may, so far as it relates to a relevant function or anything transferred by paragraph (3), be continued by or in relation to the Secretary of State for Children, Schools and Families.

(5) Anything done (or having effect as if done) by or in relation to the Secretary of State for Education and Skills in connection with a relevant function or anything transferred by paragraph (3) 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 Children, Schools and Families.

(6) Documents or forms printed for use in connection with a relevant function may be used in connection with that function even though they contain, or are to be read as containing, references to the Secretary of State for Education and Skills; 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 Children, Schools and Families.

(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—

- (a) the transfer or entrusting to the Secretary of State for Children, Schools and Families of any relevant function, or
- (b) the transfer of anything by paragraph (3),

as if references to (and references which are to be read as references to) the Secretary of State for Education and Skills were or included references to the Secretary of State for Children, Schools and Families.

(8) In paragraphs (4) to (7) references to the Secretary of State for Education and Skills include references to the department or an officer of the Secretary of State for Education and Skills; and references to the Secretary of State for Children, Schools and Families are to be read accordingly.

**Other supplemental provision in relation to the Secretary of State for Innovation, Universities and Skills: education and skills**

8.—(1) For the purposes of this article a function is a relevant function so far as—

- (a) immediately before 28th June 2007 it was entrusted to the Secretary of State for Education and Skills, and
- (b) before the making of this Order it has been entrusted to the Secretary of State for Innovation, Universities and Skills.

(2) There are transferred to the Secretary of State for Innovation, Universities and Skills—

- (a) any function of the Secretary of State for Education and Skills so far as it relates to a relevant function, and
- (b) all property, rights and liabilities to which the Secretary of State for Education and Skills is entitled or subject at the coming into force of this Order in connection with any relevant function or a function so far as transferred by sub-paragraph (a).

(3) 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 Secretary of State for Education and Skills may, so far as it relates to a relevant function or anything transferred by paragraph (2), be continued by or in relation to the Secretary of State for Innovation, Universities and Skills.

(4) Anything done (or having effect as if done) by or in relation to the Secretary of State for Education and Skills in connection with a relevant function or anything transferred by paragraph (2) 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 Innovation, Universities and Skills.

(5) Documents or forms printed for use in connection with a relevant function or a function so far as transferred by paragraph (2)(a) may be used in connection with that function even though they contain, or are to be read as containing, references to the Secretary of State for Education and Skills; 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 Innovation, Universities and Skills.

(6) 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—

- (a) the entrusting to the Secretary of State for Innovation, Universities and Skills of any relevant function, or
- (b) the transfer of anything by paragraph (2),

as if references to (and references which are to be read as references to) the Secretary of State for Education and Skills were or included references to the Secretary of State for Innovation, Universities and Skills.

(7) In paragraphs (3) to (6) references to the Secretary of State for Education and Skills include references to the department or an officer of the Secretary of State for Education and Skills; and references to the Secretary of State for Innovation, Universities and Skills are to be read accordingly.

### **Transfer of functions from the Secretary of State for Trade and Industry to the Secretary of State for Innovation, Universities and Skills**

9. The following functions of the Secretary of State for Trade and Industry are transferred to the Secretary of State for Innovation, Universities and Skills—

- (a) functions resulting from the Royal Charter (including any Supplemental Charter) of any of the following—
  - (i) the Biotechnology and Biological Sciences Research Council,
  - (ii) the Economic and Social Research Council,
  - (iii) the Engineering and Physical Sciences Research Council,
  - (iv) the Medical Research Council,
  - (v) the Natural Environment Research Council,
  - (vi) the Council for the Central Laboratory of the Research Councils,
  - (vii) the Arts and Humanities Research Council,
  - (viii) the Science and Technology Facilities Council, and
  - (ix) the Technology Strategy Board, and
- (b) functions resulting from the Patent Office Trading Fund Order 1991(2).

### **Other supplemental provision in relation to the Secretary of State for Innovation, Universities and Skills: trade and industry**

- 10.—(1) For the purposes of this article a function is a relevant function so far as—
- (a) it is transferred by article 9, or
  - (b) it is within paragraph (2).
- (2) A function is within this paragraph if—
- (a) immediately before 28th June 2007 it was entrusted to the Secretary of State for Trade and Industry, and
  - (b) before the making of this Order it has been entrusted to the Secretary of State for Innovation, Universities and Skills.
- (3) There are transferred to the Secretary of State for Innovation, Universities and Skills—
- (a) any function of the Secretary of State for Trade and Industry so far as it relates to a function within paragraph (2) (and is not transferred by article 9), and

(b) all property, rights and liabilities to which the Secretary of State for Trade and Industry is entitled or subject at the coming into force of this Order in connection with any relevant function or a function so far as transferred by sub-paragraph (a).

(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 Secretary of State for Trade and Industry may, so far as it relates to a relevant function or anything transferred by paragraph (3), be continued by or in relation to the Secretary of State for Innovation, Universities and Skills.

(5) Anything done (or having effect as if done) by or in relation to the Secretary of State for Trade and Industry in connection with a relevant function or anything transferred by paragraph (3) 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 Innovation, Universities and Skills.

(6) Documents or forms printed for use in connection with a relevant function or a function so far as transferred by paragraph (3)(a) may be used in connection with that function even though they contain, or are to be read as containing, references to the Secretary of State for Trade and Industry; 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 Innovation, Universities and Skills.

(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—

- (a) the transfer or entrusting to the Secretary of State for Innovation, Universities and Skills of any relevant function, or
- (b) the transfer of anything by paragraph (3),

as if references to (and references which are to be read as references to) the Secretary of State for Trade and Industry were or included references to the Secretary of State for Innovation, Universities and Skills.

(8) In paragraphs (4) to (7) references to the Secretary of State for Trade and Industry include references to the department or an officer of the Secretary of State for Trade and Industry; and references to the Secretary of State for Innovation, Universities and Skills are to be read accordingly.

### **Transfer of functions from the Secretary of State for Trade and Industry to the Secretary of State for Business, Enterprise and Regulatory Reform**

11. The functions of the Secretary of State for Trade and Industry (except so far as transferred by article 9, 10(3)(a) or 14) are transferred to the Secretary of State for Business, Enterprise and Regulatory Reform.

### **Other supplemental provision in relation to the Secretary of State for Business, Enterprise and Regulatory Reform**

12.—(1) For the purposes of this article a function is a relevant function so far as—

- (a) it is transferred by article 11, or
- (b) it is within paragraph (2).

(2) A function is within this paragraph if—

- (a) immediately before 28th June 2007 it was entrusted to the Secretary of State for Trade and Industry, and
- (b) before the making of this Order it has been entrusted to the Secretary of State for Business, Enterprise and Regulatory Reform.

(3) There are transferred to the Secretary of State for Business, Enterprise and Regulatory Reform all property, rights and liabilities to which the Secretary of State for Trade and Industry is entitled or subject at the coming into force of this Order in connection with any relevant function.

(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 Secretary of State for Trade and Industry may, so far as it relates to a relevant function or anything transferred by paragraph (3), be continued by or in relation to the Secretary of State for Business, Enterprise and Regulatory Reform.

(5) Anything done (or having effect as if done) by or in relation to the Secretary of State for Trade and Industry in connection with a relevant function or anything transferred by paragraph (3) 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 Business, Enterprise and Regulatory Reform.

(6) Documents or forms printed for use in connection with a relevant function may be used in connection with that function even though they contain, or are to be read as containing, references to the Secretary of State for Trade and Industry; 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 Business, Enterprise and Regulatory Reform.

(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—

- (a) the transfer or entrusting to the Secretary of State for Business, Enterprise and Regulatory Reform of any relevant function, or
- (b) the transfer of anything by paragraph (3),

as if references to (and references which are to be read as references to) the Secretary of State for Trade and Industry were or included references to the Secretary of State for Business, Enterprise and Regulatory Reform.

(8) In paragraphs (4) to (7) references to the Secretary of State for Trade and Industry include references to the department or an officer of the Secretary of State for Trade and Industry; and references to the Secretary of State for Business, Enterprise and Regulatory Reform are to be read accordingly.

**Supplemental: validity of things done before coming into force of Order by or in relation to the Secretary of State for Education and Skills or the Secretary of State for Trade and Industry**

13.—(1) This Order does not affect the validity of anything done (or having effect as if done) by or in relation to the Secretary of State for Education and Skills or the Secretary of State for Trade and Industry before the coming into force of this Order.

(2) In paragraph (1) a reference to a Secretary of State includes a reference to the department or an officer of that Secretary of State.

**Transfer of function under section 3 of the Fairs Act 1871**

14. The function of making an order under section 3 of the Fairs Act 1871(3) is transferred to the Secretary of State; and that section and section 4 of that Act are to be read accordingly.

**Consequential amendments**

15. The primary and secondary legislation referred to in the headings in Parts 1 and 2 of the Schedule is amended as set out under the headings.

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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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*Judith Simpson*  
Clerk of the Privy Council