
STATUTORY INSTRUMENTS

2010 No. 1839

MINISTERS OF THE CROWN

The Transfer of Functions (Equality) Order 2010

Made - - - - 21st July 2010
Laid before Parliament 28th July 2010
Coming into force - - 18th August 2010

At the Court at Buckingham Palace, the 21st day of July 2010

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred by section 1 of the Ministers of the Crown Act 1975(1), is pleased, by and with the advice of Her Privy Council, to order as follows:

Citation and commencement

- 1.—(1) This Order may be cited as the Transfer of Functions (Equality) Order 2010.
- (2) This Order comes into force on 18th August 2010.

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, contracts and other agreements, memoranda and articles of association, certificates, deeds and other documents.

- (2) In this Order “equality function” means a function which by virtue of article 3—
 - (a) is transferred from the Lord Privy Seal to the Secretary of State, or
 - (b) ceases to be exercisable concurrently by the Lord Privy Seal.

Transfer of equality functions

3.—(1) The functions of the Lord Privy Seal under the following enactments(2) are transferred to the Secretary of State—

(1) 1975 c. 26; section 1 was amended by section 20 of the Constitutional Reform Act 2005 (c. 4).
(2) The functions were transferred to the Lord Privy Seal by S.I. 2007/2914.

- (a) the Equal Pay Act 1970(3);
- (b) the Sex Discrimination Act 1975(4);
- (c) the Race Relations Act 1976(5);
- (d) the Sex Discrimination (Election Candidates) Act 2002(6);
- (e) section 213 of the Civil Partnership Act 2004(7);
- (f) the Equality Act 2006(8).

(2) The functions under the following enactments which are exercisable by the Secretary of State and the Lord Privy Seal concurrently(9) shall cease to be exercisable by the Lord Privy Seal—

- (a) the Employment and Training Act 1973(10);
- (b) section 70 of the Charities Act 2006(11).

Transfer of property, rights and liabilities

4.—(1) There are transferred to the Secretary of State for the Home Department all property, rights and liabilities to which the Lord Privy Seal is entitled or subject at the coming into force of this Order in connection with any equality function, other than property, rights and liabilities transferred by paragraph (2).

(2) There are transferred to the Secretary of State for Communities and Local Government—

- (a) all immovable property to which the Lord Privy Seal is entitled at the coming into force of this Order in connection with any equality function, and
- (b) all rights and liabilities to which the Lord Privy Seal is entitled or subject at that time in connection with that property.

Supplementary

5.—(1) 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 Privy Seal may, so far as it relates to any equality function or anything transferred by article 4, be continued by or in relation to the transferee.

(2) Anything done (or having effect as if done) by or in relation to the Lord Privy Seal in connection with any equality function or anything transferred by article 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 transferee.

(3) 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 article 3 or 4, as if references to (and references which are to be read as references to) the Lord Privy Seal were or included references to the transferee.

(4) Documents or forms printed for use in connection with any equality function may be used in connection with that function even though they contain (or are to be read as containing) references to the Lord Privy Seal.

(3) 1970 c. 41.

(4) 1975 c. 65.

(5) 1976 c. 74.

(6) 2002 c. 2.

(7) 2004 c. 33.

(8) 2006 c. 3.

(9) The functions are exercisable concurrently by virtue of S.I. 2007/2914.

(10) 1973 c. 50.

(11) 2006 c. 50.

(5) 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.

(6) In this article “the transferee”—

- (a) in relation to an equality function or anything transferred by article 4(1), means the Secretary of State for the Home Department, and
- (b) in relation to anything transferred by article 4(2), means the Secretary of State for Communities and Local Government.

(7) In paragraphs (1) to (5) references to the Lord Privy Seal include references to the Government Equalities Office (when in the charge of the Lord Privy Seal) or an officer of that Office, and references to the transferee—

- (a) where the transferee is the Secretary of State for the Home Department, are to be read as including references to the Government Equalities Office (when in the charge of that Secretary of State) or an officer of that Office accordingly, and
- (b) where the transferee is the Secretary of State for Communities and Local Government, are to be read as including references to the department or an officer of that Secretary of State accordingly.

Supplemental: validity of things done before coming into force of Order

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

(2) In paragraph (1) a reference to the Lord Privy Seal includes a reference to the Government Equalities Office or an officer of the Government Equalities Office.

Consequential amendments

7. The Schedule has effect.

Judith Simpson
Clerk of the Privy Council

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SCHEDULE

Article 7

CONSEQUENTIAL AMENDMENTS

Equal Pay Act 1970

- 1.—(1) The Equal Pay Act 1970(12) is amended as follows.
- (2) In the following provisions(13) for “Minister” in each place substitute “Secretary of State”—
 - (a) section 2(2) (disputes as to, and enforcement of, requirement of equal treatment);
 - (b) section 5(1) and (3) (agricultural wages orders);
 - (c) section 7B(2) and (4) to (7) (questioning of employer)(14).
- (3) In section 11 (short title, interpretation and extent), omit subsection (2B)(15).

Employment and Training Act 1973

2. In the Employment and Training Act 1973(16) omit section 13(6)(17) (interpretation).

Sex Discrimination Act 1975

- 3.—(1) The Sex Discrimination Act 1975(18) is amended as follows.
- (2) In section 16(1)(19) (Training Commission etc) omit “or the Minister”.
- (3) In the following provisions(20) for “Minister” in each place substitute “Secretary of State”—
 - (a) section 21A(5) and (7) (public authorities)(21);
 - (b) section 74(1) and (3) (help for aggrieved persons in obtaining information etc);
 - (c) section 76A(3)(i) and (4) (public authorities: general statutory duty)(22);
 - (d) section 76B(1) to (3) (specific duties)(23);
 - (e) section 76C(2), (6) and (7) (specific duties: Scotland)(24);
 - (f) section 77(4B) (validity and revision of contracts)(25);
 - (g) section 80 (power to amend certain provisions of Act);
 - (h) section 81(2A) and (2B) (orders)(26).
- (4) In the following provisions(27) for “Minister or the Secretary of State” substitute “Secretary of State”—
 - (a) section 81(1) and (2) (orders);

(12) 1970 c. 41. The Act is prospectively repealed by the Equality Act 2010 (c. 15), Schedule 27.

(13) All the provisions listed were amended by S.I. 2007/2914, Schedule.

(14) Section 7B was inserted by the Employment Act 2002 (c. 22), section 42.

(15) Section 11(2B) was inserted by S.I. 2007/2914, Schedule.

(16) 1973 c. 50.

(17) Section 13(6) was inserted by S.I. 2007/2914, Schedule.

(18) 1975 c. 65. The Act is prospectively repealed by the Equality Act 2010 (c. 15), Schedule 27.

(19) Section 16(1) was substituted by the Employment and Training Act 1981 (c. 57), Schedule 2. It was amended by the Employment Act 1988 (c. 19), Schedule 3, the Employment Act 1989 (c. 38), Schedule 7 and S.I. 2007/2914, Schedule.

(20) All the provisions listed were amended by S.I. 2007/2914, Schedule.

(21) Section 21A was inserted by the Equality Act 2006 (c. 3), section 83(1).

(22) Section 76A was inserted by the Equality Act 2006 (c. 3), section 84(1).

(23) Section 76B was inserted by the Equality Act 2006 (c. 3), section 85(1).

(24) Section 76C was inserted by the Equality Act 2006 (c. 3), section 85(1).

(25) Section 77(4B) was substituted by the Employment Rights (Dispute Resolution) Act 1998 (c. 8), Schedule 1.

(26) Section 81(2A) was inserted by section 83(3) of the Equality Act 2006 (c. 3); section 81(2B) was inserted by section 84(2) of that Act.

(27) All the provisions listed were amended by S.I. 2007/2914, Schedule.

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- (b) the definition of “prescribed” in section 82(1) (general interpretation).
- (5) In section 82(1) (general interpretation) omit the definition of “the Minister”(28).

Race Relations Act 1976

- 4.—(1) The Race Relations Act 1976(29) is amended as follows.
- (2) In section 15(1)(30) (Training Commission etc) omit “or the Minister”.
- (3) In the following provisions(31) for “Minister” in each place substitute “Secretary of State”—
 - (a) section 56(5) and (6) (remedies on complaint under section 54)(32);
 - (b) section 65(1) and (3) (help for aggrieved persons in obtaining information etc);
 - (c) section 67(4) (sheriff courts and designated county courts);
 - (d) section 71(2) and (4) to (6) (specified authorities: general statutory duty)(33);
 - (e) section 71B(2) and (3) (general statutory duty: Wales)(34);
 - (f) section 72(4B) (validity and revision of contracts)(35);
 - (g) section 73 (power to amend certain provisions of Act).
- (4) In section 78(1)(36) (interpretation)—
 - (a) omit the definition of “the Minister”, and
 - (b) in the definition of “prescribed” for “Minister or the Secretary of State” substitute “Secretary of State”.

Sex Discrimination (Election Candidates) Act 2002

- 5. In the Sex Discrimination (Election Candidates) Act 2002(37), in section 3(2)(38) (expiry) for “Lord Privy Seal” substitute “Secretary of State”.

Civil Partnership Act 2004

- 6. In the Civil Partnership Act 2004(39), in section 213(2)(40) (power to amend Schedule 20) for “Lord Privy Seal” substitute “Secretary of State”.

Equality Act 2006

- 7.—(1) The Equality Act 2006(41) is amended as follows.
- (2) In the following provisions(42) for “Minister” in each place substitute “Secretary of State”—

(28) The definition of “the Minister” was inserted by [S.I. 2007/2914](#), Schedule.

(29) [1976 c. 74](#). The Act is prospectively repealed by the Equality Act 2010 (c. 15), Schedule 27.

(30) Section 15(1) was substituted by the Employment and Training Act 1981 (c. 57), Schedule 2. It was amended by the Employment Act 1988 (c. 19), Schedule 3, the Employment Act 1989 (c. 38), Schedule 7 and [S.I. 2007/2914](#), Schedule.

(31) All the provisions listed were amended by [S.I. 2007/2914](#), Schedule.

(32) Section 56(5) and (6) was inserted by the Race Relations (Remedies) Act 1994 (c. 10), section 2(1).

(33) Section 71 was substituted by the Race Relations (Amendment) Act 2000 (c. 34), section 2(1).

(34) Section 71B was substituted by the Race Relations (Amendment) Act 2000 (c. 34), section 2(1).

(35) Section 72(4B) was substituted by the Employment Rights (Dispute Resolution) Act 1998 (c. 8), Schedule 1.

(36) Section 78(1) was amended by [S.I. 2007/2914](#), Schedule.

(37) [2002 c. 2](#).

(38) Section 3(2) was amended by [S.I. 2007/2914](#), Schedule.

(39) [2004 c. 33](#).

(40) Section 213(2) was amended by [S.I. 2007/2914](#), Schedule.

(41) [2006 c. 3](#).

(42) All the provisions listed were amended by [S.I. 2007/2914](#), Schedule. The provisions listed in paragraphs (i) to (n) are prospectively repealed by the Equality Act 2010 (c. 15), Schedule 27.

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- (a) section 4(4) (strategic plan);
 - (b) section 10(6) (power to amend list of matters for purpose of definition of “group”);
 - (c) section 12(5) (monitoring progress);
 - (d) section 14(5) and (7) to (10) (codes of practice);
 - (e) section 15(3) and (6) (codes of practice: supplemental);
 - (f) section 27(10) (conciliation);
 - (g) section 28(8) (legal assistance);
 - (h) section 29(5) (legal assistance: costs);
 - (i) section 33(3) (equality and human rights enactments);
 - (j) section 50(3) and (4) (section 49: exceptions);
 - (k) section 52(6) (public authorities: general);
 - (l) section 64(1) and (2) (amendment of exceptions);
 - (m) section 70(2), (3) and (5) (information);
 - (n) section 81(1) (regulations);
 - (o) Schedule 1 (the Commission), except paragraph 36(3).
- (3) In section 35 (general) omit the definition of “the Minister”(43).
- (4) In section 79 (interpretation) omit subsection (3)(44).
- (5) In section 81 (regulations) omit subsection (6)(45).

Charities Act 2006

8. In the Charities Act 2006(46), in section 70(11)(47) (power of relevant Minister to give financial assistance to certain institutions) for “, the Minister for the Cabinet Office or the Lord Privy Seal” substitute “or the Minister for the Cabinet Office”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision in connection with the transfer of certain statutory functions relating to equality from the Lord Privy Seal to the Secretary of State. The Government Equalities Office, previously the department of the Lord Privy Seal, is now headed by the Secretary of State entrusted with responsibility for equality (the Home Secretary).

Article 3(1) transfers to the Secretary of State certain statutory functions of the Lord Privy Seal. Article 3(2) provides that certain statutory functions exercisable concurrently by the Secretary of

(43) The definition of “the Minister” was inserted by [S.I. 2007/2914](#), Schedule.

(44) Section 79(3) was inserted by [S.I. 2007/2914](#), Schedule. Section 79 is prospectively repealed by the Equality Act 2010 (c. 15), Schedule 27.

(45) Section 81(6) was inserted by [S.I. 2007/2914](#), Schedule. Section 81 is prospectively repealed by the Equality Act 2010 (c. 15), Schedule 27.

(46) 2006 c. 50.

(47) Section 70(11) was amended by [S.I. 2007/2914](#), Schedule.

State and the Lord Privy Seal cease to be exercisable by the Lord Privy Seal. The functions in question either relate to equality or can be used in connection with functions relating to equality.

Article 4 transfers the property, rights and liabilities of the Lord Privy Seal in relation to those functions to the Home Secretary, except that immovable property and associated rights and liabilities are transferred to the Secretary of State for Communities and Local Government (who under current practice holds immovable property for the Home Secretary). Articles 5 and 6 make supplemental provision in connection with articles 3 and 4.

Article 7 and the Schedule to the Order make consequential amendments.

Nothing in this Order alters the functions of the Welsh Ministers, the Scottish Ministers or the devolved authorities in Northern Ireland.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.