
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 3

North Western and North Wales Sea Fisheries Committee

Transfer of employees

9.—(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 North Western and North 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 North Western and North 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 9 and 10 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

10.—(1) On the transfer date—

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

in relation to all the premises listed in Part 1 of Schedule 2, including any fixtures, fittings and trade fixtures at, in or on such premises, transfer to and vest in the Welsh Ministers.

(2) Save as provided by paragraph (1) and articles 9 and 11, on the transfer date—

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

in relation to the assets mentioned in paragraph (3), transfer to and vest in the Welsh Ministers.

(3) The assets referred to in paragraph (2) are—

- (a) the personal or other moveable assets at, in or on any of the premises listed in Part 1 of Schedule 2;
- (b) the personal or other moveable assets not included in sub-paragraph (a) and provided by, on behalf of or for the purposes of the North Western and North Wales Sea Fisheries Committee for the sole use of—
 - (i) those of its staff whose principal place of employment immediately before the transfer date was in Wales, or
 - (ii) any relevant employee whose employment is transferred under article 9(1); and

(c) the assets listed in Part 2 of Schedule 2.

(4) Save as provided by paragraphs (1) and (2) and articles 9 and 11, all rights and liabilities to which the North Western and North Wales Sea Fisheries Committee was entitled or subject in relation to Wales immediately before the transfer date are, on the transfer date, transferred to and vest in the Welsh Ministers.

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

(6) Paragraphs (1), (2) and (4) have effect in relation to the property, rights and liabilities to which they apply in spite of any provision (of whatever nature) which would prevent or restrict the transfer of those property, rights or liabilities otherwise than by those paragraphs.

(7) The liabilities falling within paragraph (4) include liabilities in respect of any person who meets all of the criteria set out in paragraph (8).

(8) For the purposes of paragraph (7), the criteria are—

- (a) that person was formerly employed by or on behalf of the North Western and North Wales Sea Fisheries Committee; and
- (b) that person was entirely or substantially employed in carrying out the functions of the North Western and North Wales Sea Fisheries Committee in relation to Wales.

The Menai Strait Oyster and Mussel Fishery Order 1962

11.—(1) Article 10 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 North Western and North Wales Sea Fisheries Committee(2) immediately before the transfer date; and
- (b) the property, rights and liabilities to which the North Western and North Wales Sea Fisheries Committee was entitled or subject immediately before the transfer date,

pursuant to the Menai Strait Oyster and Mussel Fishery Order 1962(3) are transferred to the Menai Strait Fishery Order Management Association.

(3) On the transfer date the Menai Strait Oyster and Mussel Fishery Order 1962 is amended as follows—

(a) for article 2, substitute—

“**2.** The Menai Strait Fishery Order Management Association (Company Registration Number 07163689) (in this Order called “the Company”) is the grantee of this Order.”;

- (b) in each place where it occurs, for “the Grantees” substitute “the Company”;
- (c) in article 5, delete the word “themselves”;
- (d) in paragraphs (a) and (b) of article 7, in each place where it occurs, for “they” substitute “it”;
- (e) in article 8, omit paragraph (3);
- (f) in article 10—
 - (i) for “they” substitute “it”, and
 - (ii) for “arrange” substitute “arranges”;
- (g) in article 13, in each place where it occurs, for “their” substitute “the Company’s”;
- (h) in article 14(6), for “their” substitute “the Company’s”; and
- (i) in article 15, in each place where it occurs, for “their” substitute “the Company’s”.

(2) The local fisheries committee in respect of the Lancashire and Western Sea Fisheries District was the original Grantee in relation to the Menai Strait Oyster and Mussel Fishery Order 1962. The name of the Lancashire and Western Sea Fisheries District was changed to the North Western and North Wales Sea Fisheries District, and the corresponding local fisheries committee underwent a similar change of name, by virtue of The North Western and North Wales Sea Fisheries District Order 1986 (S.I. 1986/1201). S.I. 1986/1201 was revoked and replaced by the North Western and North Wales Sea Fisheries District Order 1999 (S.I. 1999/1043).

(3) S.I. 1962/705 as amended by S.I. 1964/550.

(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

12.—(1) Nothing in article 3, 9, 10 or 11 affects the validity of anything done by or in relation to the North Western and North Wales Sea Fisheries Committee in relation to Wales 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 11(2), that were exercisable by the North Western and North Wales Sea Fisheries Committee in relation to Wales immediately before the transfer date or to any property, rights or liabilities transferred by article 9 or 10;
- (b) is in the process of being done by or in relation to the North Western and North Wales Sea Fisheries Committee in relation to Wales 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 North Western and North Wales Sea Fisheries Committee in relation to Wales for the purpose of or in connection with any of the functions, other than those transferred by article 11(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 9 or 10; 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 North Western and North 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 11(2), that were exercisable by the North Western and North Wales Sea Fisheries Committee in relation to Wales immediately before the transfer date.

(5) There may be continued by or in relation to the Menai Strait Fishery Order Management Association anything (including legal proceedings) which—

- (a) relates to any of the functions, property, rights or liabilities transferred by article 11(2);
- (b) is in the process of being done by or in relation to the North Western and North Wales Sea Fisheries Committee immediately before the transfer date; and
- (c) could lawfully be undertaken by or in relation to the Menai Strait Fishery Order Management Association.

(6) Anything which—

- (a) was done by the North Western and North Wales Sea Fisheries Committee in relation to Wales for the purpose of or in connection with any of the functions, property, rights or liabilities transferred by article 11(2); and
- (b) is in effect immediately before the transfer date,

has effect on and after the transfer date as if done by the Menai Strait Fishery Order Management Association to the extent that that company could lawfully undertake that action.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.
