

Draft Order laid before Parliament under sections 35(7) and 37(7) of the Regional Development Agencies Act 1998, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

1999 No.

**COUNTRYSIDE AGENCY
REGIONAL DEVELOPMENT AGENCIES
URBAN REGENERATION AGENCY
DEVELOPMENT COMMISSION**

The Development Commission (Transfer of
Functions and Miscellaneous Provisions) Order 1999

Made - - - - 1999
Coming into force - - 1999

The Secretary of State, in exercise of the powers conferred upon him by sections 35 and 37 of the Regional Development Agencies Act 1998(1) and of all other powers enabling him in that behalf, hereby makes the following Order, a draft of which has been laid before and approved by a resolution of each House of Parliament:

Citation and Commencement

1. This Order may be cited as the Development Commission (Transfer of Functions and Miscellaneous Provisions) Order 1999, and shall come into force on the day after the day on which it is made.

Interpretation

2. In this Order—

“the 1983 Act” means the Miscellaneous Financial Provisions Act 1983(2);

“the 1998 Act” means the Regional Development Agencies Act 1998;

“the transfer date” means 1st April 1999; and

(1) 1998 c. 45.
(2) 1983 c. 29.

any reference to the Countryside Agency shall, in relation to any time before the transfer date, be treated as a reference to the Countryside Commission.

Change of name of the Countryside Commission

3. On and after the transfer date—
 - (a) the Countryside Commission shall be known as the Countryside Agency;
 - (b) any reference to the Countryside Commission in any instrument or document subsisting before the transfer date shall have effect as if for that reference there were substituted a reference to the Countryside Agency;
 - (c) anything done by or in relation to the Countryside Commission before the transfer date shall, so far as is required for continuing its effect on or after that date, have effect as if it had been done by or in relation to the Countryside Agency;
 - (d) the enactments specified in Schedule 1 to this Order shall have effect subject to the amendments specified in that Schedule; and
 - (e) any provision of a local Act passed, or subordinate legislation made, before the transfer date which refers to the Countryside Commission shall have effect as if for each reference to the Countryside Commission there were substituted a reference to the Countryside Agency.

Transfer of functions to the Countryside Agency

4. Subject to article 6 below, on the transfer date the functions of the Development Commission under section 1(3) of the 1983 Act (to keep under review and advise the Secretary of State upon all matters relating to the economic and social development of rural areas in England and to carry out or assist others to carry out measures likely to further such development) shall be transferred to the Countryside Agency.

Supplementary, incidental and consequential provisions to article 4 of this Order

5.—(1) On the transfer date the powers of the Development Commission under section 1(4) of the 1983 Act shall be transferred to the Countryside Agency.

(2) The Countryside Agency shall not give financial assistance under article 4 or paragraph (1) above to any person except in accordance with arrangements approved by the Secretary of State and the Treasury.

(3) The power of the Countryside Agency to acquire land in consequence of paragraph (1) above includes power, if authorised by the Secretary of State, to purchase land compulsorily; and the Acquisition of Land Act 1981⁽³⁾ shall apply to any such compulsory purchase by the Countryside Agency.

(4) The Secretary of State may give the Countryside Agency directions as to the exercise of the functions transferred to it under article 4 above, and the Agency shall comply with any such directions.

(5) Anything which immediately before the transfer date is in the process of being done by or in relation to the Development Commission and which relates to any function or power transferred to the Countryside Agency under article 4 or paragraph (1) above may be continued by or in relation to the Countryside Agency as if it had been done by or in relation to that Agency.

(3) 1981 c. 67.

(6) Anything done by or in relation to the Development Commission before the transfer date in respect of any matter relating to any function or power transferred to the Countryside Agency under article 4 or paragraph (1) above shall—

(a) to the extent that the matter becomes the responsibility of the Countryside Agency in consequence of an order under section 35 of the 1998 Act or a scheme made pursuant to section 35(5) of that Act, and

(b) so far as is required for continuing its effect on and after that date,

have effect as if done by or in relation to the Countryside Agency.

Termination of the exercise of functions of the Development Commission

6. On and after the transfer date the Development Commission shall have only the following functions—

(a) anything which falls to be done by the Development Commission in connection with any transfer scheme under section 34 of the 1998 Act or in connection with article 7 or 8 of this Order;

(b) the functions under article 8(1) below;

(c) the preparation of accounts and reports; and

(d) such other functions as are necessary for winding up the affairs of the Development Commission.

Transfer of property, rights and liabilities to the Countryside Agency

7.—(1) The Development Commission shall make one or more schemes for the transfer to the Countryside Agency of such of the Development Commission's property, rights and liabilities as appear to the Secretary of State appropriate to be transferred in consequence of this Order.

(2) Schedule 2 to this Order (being the provisions of Schedule 8 to the 1998 Act, with those modifications which the Secretary of State thinks fit) shall have effect in relation to any scheme under this article.

Functions with respect to the provision of services to regional development agencies

8.—(1) The Development Commission shall have functions with respect to the provision of services of the following descriptions to any regional development agency—

(a) financial services;

(b) administration;

(c) personnel services;

(d) services relating to the use of information technology;

(e) services relating to the management of land and buildings;

(f) training and advice in connection with the services listed above.

(2) The Urban Regeneration Agency shall have functions with respect to the provision of services of the following descriptions to any regional development agency—

(a) financial services;

(b) administration;

(c) personnel services;

(d) services relating to the use of information technology;

(e) services relating to the management of land and buildings;

- (f) research;
- (g) best practice guidance;
- (h) project appraisal;
- (i) training and advice in connection with the services listed above.

(3) The Development Commission shall make one or more schemes for the transfer to the Urban Regeneration Agency of such of the Development Commission's property, rights and liabilities relating to the functions in paragraph (1) above as appear to the Secretary of State appropriate to be transferred in consequence of this Order.

(4) Schedule 2 to this Order (being the provisions of Schedule 8 to the 1998 Act with those modifications which the Secretary of State thinks fit) shall apply in relation to any scheme under this article with the following modifications—

- (a) in paragraph 1, for the words “article 7” there shall be substituted the words “article 8”; and
- (b) for the words “the Countryside Agency” wherever they appear, there shall be substituted the words “the Urban Regeneration Agency”.

Supplementary, incidental and consequential provision

9. In section 167(2)(a) of the Leasehold Reform, Housing and Urban Development Act 1993(4) (power of the Secretary of State to give directions to the Urban Regeneration Agency), the words “under this Part” shall be omitted.

Signed by authority of the Secretary of State

Minister of State,
Department of the Environment, Transport and
the Regions

1999

SCHEDULE 1

Article 3

CONSEQUENTIAL AMENDMENT OF ENACTMENTS

1.—(1) The National Parks and Access to the Countryside Act 1949**(5)** shall be amended as follows.

(2) In section 1(1)**(6)** (Countryside Commission and Countryside Council for Wales) for the words “Countryside Commission” there shall be substituted the words “Countryside Agency”.

(3) In section 4A(2)**(7)** (application in Wales) for the words “Countryside Commission” there shall be substituted the words “Countryside Agency”.

(4) In section 50A(2)**(8)** (application in Wales) for the words “Countryside Commission” there shall be substituted the words “Countryside Agency”.

(5) For the words “the Commission” wherever they appear there shall be substituted the words “the Agency”.

2. In Part II of the Table in Schedule 1 to the Public Records Act 1958**(9)** (other establishments and organisations) for the words “National Parks Commission” there shall be substituted the words “Countryside Agency”.

3. In Schedule 2 to the Parliamentary Commissioner Act 1967**(10)** (Departments etc subject to investigation) for the words “Countryside Commission” there shall be substituted the words “Countryside Agency”.

4.—(1) The Countryside Act 1968**(11)** shall be amended as follows.

(2) In section 1(1)**(12)** (general functions) for the words “Countryside Commission” there shall be substituted the words “Countryside Agency”.

(3) In section 1A**(13)** for the words “Countryside Commission” there shall be substituted the words “Countryside Agency”.

(4) In section 49(2) (interpretation) for the words ““the Commission” means the Countryside Commission”**(14)** there shall be substituted the words ““the Agency” means the Countryside Agency”.

(5) For the word “Commission” wherever it appears there shall be substituted the word “Agency”.

5. In Schedule 1 to the Superannuation Act 1972**(15)** (kinds of employment referred to in section 1) for the words “Countryside Commission” there shall be substituted the words “Countryside Agency”.

6.—(1) The Local Government Act 1974**(16)** shall be amended as follows.

(2) In section 7(3) (supplementary aggregate grants) for the words “Countryside Commission” there shall be substituted the words “Countryside Agency”.

(5) 1949 c. 97.

(6) Section 1 was substituted by the Environmental Protection Act 1990 (c. 43), section 130 and Schedule 8, paragraph 1(2).

(7) Section 4A was inserted by the Environmental Protection Act 1990, section 130 and Schedule 8, paragraph 1(4).

(8) Section 50A was inserted by the Environmental Protection Act 1990, section 130 and Schedule 8, paragraph 1(6).

(9) 1958 c. 51.

(10) 1967 c. 13.

(11) 1968 c. 41.

(12) Section 1(1) was substituted by the Environmental Protection Act 1990, section 130 and Schedule 8, paragraph 2(2).

(13) Section 1A was inserted by the Environmental Protection Act 1990, section 130 and Schedule 8, paragraph 2(2).

(14) These words were inserted by the Environmental Protection Act 1990, section 130 and Schedule 8, paragraph 2(13).

(15) 1972 c. 11; the reference to the Countryside Commission was inserted by the Wildlife and Countryside Act 1981 (c. 69), Schedule 13, paragraph 10(1).

(16) 1974 c. 7.

(3) In section 9(17) (grants and loans by the Countryside Commission) for the words “Countryside Commission” wherever they appear there shall be substituted the words “Countryside Agency” and for the words “the Commission” wherever they appear there shall be substituted the words “the Agency”.

7. In Part III of Schedule 1 to the House of Commons Disqualification Act 1975(18) (other disqualifying offices) for the words “Countryside Commission” there shall be substituted the words “Countryside Agency”.

8.—(1) The Highways Act 1980(19) shall be amended as follows.

(2) In section 105A(6)(20) (environmental assessment) for the words “Countryside Commission” there shall be substituted the words “Countryside Agency”.

(3) In section 120(2) (extinguishment and diversion orders) for the words “Countryside Commission” there shall be substituted the words “Countryside Agency”.

9.—(1) The Wildlife and Countryside Act 1981(21) shall be amended as follows.

(2) In section 34 (limestone pavement orders) for the words “the Commission” wherever they appear there shall be substituted the words “the Agency” and in subsection (6) for the words “Countryside Commission” there shall be substituted the words “Countryside Agency”.

(3) In section 42(6) (notification of agricultural operations) for the words “Countryside Commission” there shall be substituted the words “Countryside Agency”.

(4) In section 43(1B)(22) (maps of National Parks showing certain areas of moor and heath) for the words “Countryside Commission” there shall be substituted the words “Countryside Agency”.

(5) In section 43(1C)(22) for the word “Commission” there shall be substituted the word “Agency”.

(6) In section 45(1)(23) (power to vary orders designating National Park) for the words “Countryside Commission” whenever they appear there shall be substituted the words “Countryside Agency”.

(7) In section 45(2)(24) for the words “Countryside Commission” there shall be substituted the words “Countryside Agency”.

(8) In section 47 (provisions with respect to the Countryside Commission) for the words “Countryside Commission” wherever they appear there shall be substituted the words “Countryside Agency”.

(9) In section 49 (extension of power to appoint wardens) for the words “Countryside Commission” wherever they appear there shall be substituted the words “Countryside Agency”.

10. In section 22 of the Road Traffic Regulation Act 1984(25) (traffic regulation for special areas in the countryside) for the words “Countryside Commission” wherever they appear there shall be substituted the words “Countryside Agency”.

(17) Section 9 was amended by the Environmental Protection Act 1990, section 130 and Schedule 8, paragraph 4.

(18) 1975 c. 24.

(19) 1980 c. 66.

(20) Section 105A was inserted by the Highways (Assessment of Environmental Effects) Regulations 1988, S.I.1988/1241, regulation 2.

(21) 1981 c. 69.

(22) Section 43(1B) and (1C) was inserted by the Wildlife and Countryside (Amendment) Act 1985 (c. 31), section 3.

(22) Section 43(1B) and (1C) was inserted by the Wildlife and Countryside (Amendment) Act 1985 (c. 31), section 3.

(23) Section 45(1) was so numbered by the Environmental Protection Act 1990, section 130 and Schedule 8 paragraph 6(4).

(24) Section 45(2) was inserted by the Environmental Protection Act 1990, section 130 and Schedule 8, paragraph 6(4).

(25) 1984 c. 27; section 22(3) was substituted by the New Roads and Street Works Act 1991 (c. 22), Schedule 8, paragraph 34(2).

11. In section 18(2) of the Agriculture Act 1986**(26)** (designation and management of environmentally sensitive areas) for the words “Countryside Commission” there shall be substituted the words “Countryside Agency”.

12. In paragraph 17 of Schedule 3 to the Channel Tunnel Act 1987**(27)** (planning permission) for the words “Countryside Commission” there shall be substituted the words “Countryside Agency”.

13. In paragraph 2 of Schedule 9 to the Electricity Act 1989**(28)** (preservation of amenity and fisheries) for the words “Countryside Commission” there shall be substituted the words “Countryside Agency”.

14.—(1) The Environmental Protection Act 1990**(29)** shall be amended as follows.

(2) In section 130(4) (countryside functions of Welsh Council) for the words “Countryside Commission” there shall be substituted the words “Countryside Agency”.

(3) In section 136 (transfer to Welsh Council) for the words “Countryside Commission” and “Commission” wherever they appear there shall be substituted the words “Countryside Agency”.

(4) In section 137(3) (employment by new Councils of staff of existing bodies) for the words “Countryside Commission” there shall be substituted the words “Countryside Agency” and for the words “the Commission” there shall be substituted the words “the Agency”.

(5) In paragraph 2 of Schedule 7 (the Joint Nature Conservation Committee) for the words “Countryside Commission” there shall be substituted the words “Countryside Agency”.

15.—(1) The Water Industry Act 1991**(30)** shall be amended as follows.

(2) In section 5(4) (codes of practice) for the words “Countryside Commission” there shall be substituted the words “Countryside Agency”.

(3) In section 156 (restriction on disposals of land) for the words “Countryside Commission” wherever they appear there shall be substituted the words “Countryside Agency”.

16. In section 61E of the Land Drainage Act 1991**(31)** (codes of practice) for the words “Countryside Commission” there shall be substituted the words “Countryside Agency”.

17.—(1) The Environment Act 1995**(32)** shall be amended as follows.

(2) In section 9 (codes of practice) for the words “Countryside Commission” there shall be substituted the words “Countryside Agency”.

(3) In section 66(7) (National Park management plans) for the words “Countryside Commission” there shall be substituted the words “Countryside Agency”.

(4) In section 72(2) (National Park grant) for the words “Countryside Commission” there shall be substituted the words “Countryside Agency”.

(5) In section 99(2) (consultation) for the words “Countryside Commission” there shall be substituted the words “Countryside Agency”.

(6) In Schedule 7 (National Park authorities) for the words “Countryside Commission” wherever they appear there shall be substituted the words “Countryside Agency”.

(26) 1986 c. 49.

(27) 1987 c. 53.

(28) 1989 c. 29.

(29) 1990 c. 43.

(30) 1991 c. 56.

(31) 1991 c. 59; section 61E was inserted by the Land Drainage Act 1994 (c. 25), section 1.

(32) 1995 c. 25.

18.—(1) The Channel Tunnel Rail Link Act 1996⁽³³⁾ shall be amended as follows.

(2) In Part IV of Schedule 6 (supplementary) for the words “Countryside Commission” there shall be substituted the words “Countryside Agency”.

(3) In Schedule 14 (overhead lines: consent) for the words “Countryside Commission” there shall be substituted the words “Countryside Agency”.

SCHEDULE 2

Articles 7 and 8

THE DEVELOPMENT COMMISSION: TRANSFER SCHEMES

Definition

1. In this Schedule, “transfer scheme” means a scheme under article 7 of this Order.

Making and approval of transfer scheme

2.—(1) The Development Commission shall submit any transfer scheme to the Secretary of State for his approval before such date as he may direct.

(2) A transfer scheme shall not take effect unless approved by the Secretary of State.

(3) The Secretary of State may approve a transfer scheme submitted to him by the Development Commission either with or without modifications.

3.—(1) The Secretary of State may make a transfer scheme himself if—

(a) he decides not to approve (with or without modifications) a scheme submitted to him before the date specified in relation to it under paragraph 2(1), or

(b) no scheme is submitted to him for approval before that date.

(2) Nothing in sub-paragraph (1) shall prevent the Secretary of State from approving a scheme submitted to him after the date specified in relation to it under paragraph 2(1).

(3) A scheme made by the Secretary of State under sub-paragraph (1) shall be treated for all purposes as having been made by the Development Commission and approved by him.

Contents of scheme

4.—(1) The property, rights and liabilities which may be transferred by a transfer scheme include property, rights and liabilities that would not otherwise be capable of being transferred or assigned.

(2) The transfers authorised by sub-paragraph (1) include transfers which are to take effect as if there were no such contravention, liability or interference with any interest or right as there would otherwise be by reason of any provision having effect (whether under any enactment or agreement or otherwise) in relation to the terms on which the transferor is entitled to the property or right, or subject to the liability, in question.

5. A transfer scheme may define the property, rights and liabilities to be transferred to the Countryside Agency by specifying or describing them or by referring to all the property, rights and liabilities comprised in a specified part of the undertaking of the Development Commission (or partly in one way and partly in the other).

(33) 1996 c. 61.

6. A transfer scheme may also contain provision—
- (a) for the creation, in relation to property which the scheme transfers, of an interest in or right over the property in favour of the Development Commission;
 - (b) for the creation in favour of the Countryside Agency of an interest in or right over property retained by the Development Commission;
 - (c) for the creation in favour of another public body of an interest in or right over property which the scheme transfers to the Countryside Agency;
 - (d) for the creation of any rights or liabilities as between the Countryside Agency and a regional development agency, or as between the Countryside Agency and the Development Commission;
 - (e) for any rights or liabilities specified or described in the scheme to be, or to be to any extent, enforceable by or against the Countryside Agency, a regional development agency or the Development Commission;
 - (f) for imposing on the Countryside Agency and a regional development agency, or on the Countryside Agency and the Development Commission, an obligation to enter into written agreements with, or execute other instruments in favour of, each other.
7. A transfer scheme may make such supplemental, incidental and consequential provision as the Development Commission considers appropriate.

Effect of scheme

8.—(1) On the date appointed by a transfer scheme, the property, rights and liabilities which are the subject of the scheme shall, by virtue of this paragraph, be transferred in accordance with the provisions of the scheme.

- (2) In respect of property, rights and liabilities transferred in accordance with a transfer scheme—
- (a) anything which, immediately before the date appointed by that scheme for the transfer, is in the process of being done by or in relation to the Development Commission may be continued by or in relation to the Countryside Agency as if it had been done by or in relation to that Agency; and
 - (b) anything done by or in relation to the Development Commission before the date appointed by that scheme for the transfer shall, so far as is required for continuing its effect on or after that date, have effect as if done by or in relation to the Countryside Agency.

Effect of transfer by scheme of contracts of employment

9.—(1) This paragraph applies where rights and liabilities under a contract of employment are transferred by a transfer scheme.

(2) For the purposes of Part XI of the Employment Rights Act 1996⁽³⁴⁾ (redundancy payments etc), the employee shall not be regarded as having been dismissed by virtue of the transfer.

(3) For the purposes of that Act, the employee's period of employment with the Development Commission shall count as a period of employment with the Countryside Agency, and the change of employment shall not break the continuity of the period of employment.

(34) 1996 c. 18.

Modification of scheme

10.—(1) If at any time after a transfer scheme has come into force the Secretary of State considers it appropriate to do so, having consulted the Countryside Agency and, where practicable, the Development Commission, he may direct that the scheme shall for all purposes be deemed to have come into force with such modifications, other than modifications relating to the transfer of rights and liabilities under a contract of employment, as may be specified in the direction.

(2) A direction under sub-paragraph (1) may make, with effect from the coming into force of the scheme, such provision as could have been made by the scheme, and in connection with giving effect to that provision from that time may contain such supplemental, consequential and transitional provision as the Secretary of State considers appropriate.

Provision of information to Secretary of State

11. The Development Commission, the Countryside Agency and any regional development agency shall provide the Secretary of State with all such information and other assistance as he may reasonably require for the purposes of or in connection with the exercise of any of the powers conferred on him by this Schedule.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which comes into force on 1999–
changes the name of the Countryside Commission to the Countryside Agency on 1st April 1999 (article 3);
transfers functions of the Development Commission to the Countryside Agency on 1st April 1999 (article 4);
requires the Development Commission to make one or more schemes for the transfer to the Countryside Agency of such of the Development Commission’s property, rights and liabilities as appear to the Secretary of State to be appropriate (article 7). Schedule 2 to the Order provides for the transfer schemes;
makes provision for the Development Commission and the Urban Regeneration Agency to have functions with respect to the provision of certain services to any regional development agency (established by Part I of the 1998 Act) (article 8); and
contains supplementary, incidental, consequential and transitional provisions (articles 3, 5, 6, 8 and 9).