
DRAFT STATUTORY INSTRUMENTS

2002 No.

**The Ministry of Agriculture, Fisheries
and Food (Dissolution) Order 2002**

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002.

(2) This Order shall come into force on the day after the day on which it is made.

(3) Any provision of this Order for the transfer of functions of the Minister of Agriculture, Fisheries and Food acting alone to the Secretary of State or a named Secretary of State (however described) shall be construed, in relation to any of those functions so far as they are already exercisable concurrently with the Minister of Agriculture, Fisheries and Food by the Secretary of State acting alone or (as the case may be) the named Secretary of State acting alone, as providing that the functions shall cease to be exercisable by the Minister of Agriculture, Fisheries and Food; and references in this Order to functions transferred or to a transfer by the Order shall be construed accordingly.

(4) In determining for the purposes of this Order whether a share of a joint function is held by the Secretary of State or a named Secretary of State (however described), any transfer under the Transfer of Functions (Wales) Order 1969⁽¹⁾ or the Transfer of Functions (Wales) (No. 1) Order 1978⁽²⁾ which was expressed to be a transfer to the Secretary of State, or to the Secretary of State and another person jointly, shall, irrespective of any supplementary provision in the Order, be treated as a transfer to, or (as the case may be) including a transfer to, the Secretary of State (and not a named Secretary of State).

(5) In this Order, unless the context otherwise requires, any reference to a function of, or exercisable by, a Minister or Ministers shall, in the case of a function which is exercisable by the Minister or Ministers jointly with another person or is otherwise shared by the Minister or Ministers with another person, be construed as a reference to the share of the Minister or Ministers in that function.

(6) In this Order any description in article 2(3) or (4)(c) or article 3(4), (6), (9)(c) or (10)(c) of a function to be transferred does not, so far as it refers to a function of, or exercisable by, the Secretary of State, include a reference to a function of, or exercisable by, a named Secretary of State (however described); and article 6(6), (7) and (8) do not apply in relation to a transfer to a named Secretary of State and the other references in article 6(7) and (8) to the Secretary of State also do not include references to a named Secretary of State.

(7) In this Order “instrument”, without prejudice to the generality of that expression, includes in particular Royal Charters, Orders in Council, Letters Patent, judgments, decrees, orders, rules, regulations, schemes, bye-laws, awards, contracts and other agreements, memoranda and articles of association, warrants, certificates and other documents.

(8) In this Order—

“the transferor” means—

(1) S.I.1969/388.

(2) S.I. 1978/272 (“the 1978 Order”).

- (a) in relation to anything transferred by article 2(3), (4)(c) or (d) or (5) or article 3(4), (5), (6), (7), (8), (9)(c), (10)(c) or (11), the Minister of Agriculture, Fisheries and Food and the Minister or Ministers concerned, or any of them;
 - (b) in relation to anything transferred by article 2(4)(b), 3(9)(b) or (10)(b) or 4(2), the Minister concerned; and
 - (c) in any other case, the Minister of Agriculture, Fisheries and Food; and
- “the transferee” means—
- (a) in relation to anything transferred by article 2(5) or 3(4) or (11)(a) or (c), the Secretary of State for Environment, Food and Rural Affairs and the Minister or Ministers concerned, or (as the case may be) the Secretary of State for Environment, Food and Rural Affairs or the Minister or Ministers concerned;
 - (b) in relation to anything transferred by article 3(3), each Secretary of State having responsibility for any matters connected with the regulation of veterinary products;
 - (c) in relation to anything transferred by article 4(2), the Secretary of State to whom the transferred function is entrusted on the coming into force of this Order; and
 - (d) in any other case, the Secretary of State or (as the case may be) the Secretary of State for Environment, Food and Rural Affairs.

Dissolution of Ministry and general transfer of functions

2.—(1) The Ministry of Agriculture, Fisheries and Food is hereby dissolved.

(2) Subject as follows, the functions of the Minister of Agriculture, Fisheries and Food are hereby transferred to the Secretary of State.

(3) Any function which is exercisable by the Minister of Agriculture, Fisheries and Food and the Secretary of State acting jointly is hereby transferred to the Secretary of State.

(4) Any function of—

- (a) the Minister of Agriculture, Fisheries and Food;
- (b) a named Secretary of State (however described);
- (c) the Minister of Agriculture, Fisheries and Food and the Secretary of State acting jointly; or
- (d) the Minister of Agriculture, Fisheries and Food and one or more named Secretaries of State (however described) acting jointly;

under any scheme, regulations, Order in Council, order, bye-laws or similar instrument made (or having effect as if made) in the exercise of, or in relation to, any function which is transferred (whether wholly or partly) by paragraph (3) is, so far as is consistent with the transfer effected by that paragraph, hereby transferred to the Secretary of State.

(5) Subject to paragraphs (3) and (4), any function which is exercisable by the Minister of Agriculture, Fisheries and Food and one or more named Secretaries of State (however described) acting jointly is hereby transferred to the Secretary of State for Environment, Food and Rural Affairs and the one or more named Secretaries of State acting jointly.

(6) Any function of the Minister of Agriculture, Fisheries and Food under any scheme, regulations, Order in Council, order, bye-laws or similar instrument made (or having effect as if made) in the exercise of, or in relation to, any function which is transferred (whether wholly or partly) by paragraph (5) is, so far as is consistent with the transfer effected by that paragraph, hereby transferred to the Secretary of State for Environment, Food and Rural Affairs.

(7) Paragraphs (2) to (6) do not apply so far as article 3 does apply.

Specific transfers of functions

3.—(1) Subject to paragraphs (4) and (7), any function of the Minister of Agriculture, Fisheries and Food—

- (a) under the New Forest Act 1949(3), the New Forest Act 1964(4) or the New Forest Act 1970(5);
- (b) under section 19 of the Veterinary Surgeons Act 1966(6);
- (c) under the Medicines Act 1968(7) or the Medicines Act 1971(8) (other than any function of laying a copy of a report under section 5(2) of the Act of 1968 and any function under section 108 of that Act);
- (d) under paragraph 3 of Schedule 1 to the Poisons Act 1972(9);
- (e) under section 51 of the Fair Trading Act 1973(10) or any related provision of that Act;
- (f) as “the Minister” under section 7 of the Agricultural Marketing Act 1983(11); or
- (g) which is exercisable by virtue of section 265(3)(a) or (4) of the Town and Country Planning Act 1990(12);

is hereby transferred to the Secretary of State for Environment, Food and Rural Affairs.

(2) Any function of the Minister of Agriculture, Fisheries and Food under any scheme, regulations, Order in Council, order, bye-laws or similar instrument made (or having effect as if made) in the exercise of, or in relation to, any function which is transferred (whether wholly or partly) by paragraph (1) is, so far as is consistent with the transfer effected by that paragraph, hereby transferred to the Secretary of State for Environment, Food and Rural Affairs.

(3) Any function of the Minister of Agriculture, Fisheries and Food under section 29 of the Food Standards Act 1999(13) is hereby transferred to each Secretary of State having responsibility for any matters connected with the regulation of veterinary products.

(4) Any function under the New Forest Act 1949, the New Forest Act 1964 or the New Forest Act 1970(14) which is exercisable by the Minister of Agriculture, Fisheries and Food and the Secretary of State acting jointly is hereby transferred to the Secretary of State for Environment, Food and Rural Affairs and the Secretary of State for Transport, Local Government and the Regions acting jointly.

(5) Any function under Schedule 1 to the Forestry Act 1967(15) which is exercisable by the Minister of Agriculture, Fisheries and Food and the Secretary of State for Wales acting jointly is hereby transferred to the Secretary of State.

(3) 1949 c. 69.

(4) 1964 c. 83.

(5) 1970 c. 21.

(6) 1966 c. 36. Functions under this Act have been transferred by the 1978 Order, art. 4 and Sch. 2.

(7) 1968 c. 67. The definitions of “the Health Ministers” and “the Agriculture Ministers” in section 1(1) were modified by the Transfer of Functions (Medicines and Poisons) Order 1999 (S.I. 1999/3142), arts. 2 and 5 and para. 1 of the Schedule. They were also modified by the effect of paragraph 10 of Schedule 12 to the Northern Ireland Act 1998 (c. 47) and the Departments (Northern Ireland) Order 1999 (S.I. 1999/283 (N.I. 1)), art. 3.

(8) 1971 c. 69.

(9) 1972 c. 66.

(10) 1973 c. 41.

(11) 1983 c. 3. Functions under section 7(2) were transferred by section 53 of the Scotland Act 1998 (c. 46) and are exercisable concurrently by the National Assembly for Wales by virtue of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) (“the Assembly Order”), art. 2 and Sch. 1.

(12) 1990 c. 8. Section 265(3)(a) was amended by the Environment Act 1995 (Consequential Amendments) Regulations 1996 (S.I. 1996/593), reg. 2 and Sch. 1. Functions exercisable by virtue of section 265(3)(a) and (4) were transferred by the Assembly Order, art. 2 and Sch. 1.

(13) 1999 c. 28.

(14) The functions of the Minister of Transport under these Acts were transferred to the Secretary of State by the Transfer of Functions (Transport) Order 1981 (S.I. 1981/238), art. 2.

(15) 1967 c. 10. Schedule 1 was amended by the Scotland Act 1998 (Cross-Border Public Authorities) (Adaptation of Functions etc.) Order 1999 (S.I. 1999/1747), art. 3 and Sch. 12. Functions were also transferred by the Assembly Order, art. 2 and Sch. 1.

(6) Any function under section 2, 3 or 5 of the Agriculture (Miscellaneous Provisions) Act 1968⁽¹⁶⁾ which is exercisable by the Minister of Agriculture, Fisheries and Food, the Secretary of State and the Secretary of State for Wales acting jointly is hereby transferred to the Secretary of State.

(7) Any function under the Medicines Act 1968 or the Medicines Act 1971 which is exercisable, by the Minister of Agriculture, Fisheries and Food and the Secretary of State concerned with health in England acting jointly, by virtue of the definition of “the Ministers” in section 1(1) of the Act of 1968 (including any function so exercisable by virtue of the definition of “the appropriate Ministers” in section 1(2) of that Act) is hereby transferred to the Secretary of State.

(8) Any function under the Dairy Produce Quotas Regulations 1997⁽¹⁷⁾ which is exercisable by—

- (a) the Minister of Agriculture, Fisheries and Food and the Secretary of State for Wales acting jointly; or
- (b) the Minister of Agriculture, Fisheries and Food, the Secretary of State for Wales and the Secretary of State for Scotland acting jointly;

is hereby transferred to the Secretary of State.

(9) Any function of—

- (a) the Minister of Agriculture, Fisheries and Food;
- (b) a named Secretary of State (however described); or
- (c) the Minister of Agriculture, Fisheries and Food and the Secretary of State for Wales, the Secretary of State for Scotland or the Secretary of State, or more than one of them, acting jointly;

under any scheme, regulations, Order in Council, order, bye-laws or similar instrument made (or having effect as if made) in the exercise of, or in relation to, any function which is transferred (whether wholly or partly) by paragraph (5), (6) or (8) is, so far as is consistent with the transfer effected by that paragraph, hereby transferred to the Secretary of State.

(10) Any function of—

- (a) the Minister of Agriculture, Fisheries and Food;
- (b) a named Secretary of State (however described); or
- (c) the Minister of Agriculture, Fisheries and Food and the Secretary of State concerned with health in England acting jointly or the Minister of Agriculture, Fisheries and Food and the Secretary of State acting jointly;

under any scheme, regulations, Order in Council, order, bye-laws or similar instrument made (or having effect as if made) in the exercise of, or in relation to, any function which is transferred (whether wholly or partly) by paragraph (7) is, so far as is consistent with the transfer effected by that paragraph, hereby transferred to the Secretary of State.

(11) Any function of making regulations under section 2(2) of the European Communities Act 1972⁽¹⁸⁾ which is exercisable by the Minister of Agriculture, Fisheries and Food and one or more Secretaries of State acting jointly is hereby transferred—

⁽¹⁶⁾ 1968 c. 34. Functions under sections 2, 3 and 5 have been transferred by the 1978 Order, art. 2 and Sch. 1, section 53 of the Scotland Act 1998 and the Assembly Order, art. 2 and Sch. 1. Section 3 was amended by the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999 (S.I. 1999/1820), art. 4 and Sch. 2, para. 46.

⁽¹⁷⁾ S.I. 1997/733. Functions under the regulations have been transferred by section 53 of the Scotland Act 1998 and the Assembly Order, art. 2 and Sch. 1.

⁽¹⁸⁾ 1972 c. 68.

- (a) in a case where the Secretary of State for Environment, Food and Rural Affairs is not the Secretary of State concerned or one of the Secretaries of State concerned, to the Secretary of State for Environment, Food and Rural Affairs and the Secretary of State, or (as the case may be) Secretaries of State, concerned acting jointly;
- (b) in a case where the Secretary of State for Environment, Food and Rural Affairs is the Secretary of State concerned, to the Secretary of State; and
- (c) in a case where the Secretary of State for Environment, Food and Rural Affairs is one of the Secretaries of State concerned, to those Secretaries of State acting jointly.

Transfer of property, rights and liabilities

4.—(1) Subject to paragraphs (2) to (5), all property, rights and liabilities to which the Minister of Agriculture, Fisheries and Food is entitled or subject immediately before the coming into force of this Order are hereby transferred to the Secretary of State for Environment, Food and Rural Affairs.

(2) Subject to paragraphs (3) and (5), all property, rights and liabilities to which the Minister of Agriculture, Fisheries and Food or a Secretary of State is entitled or subject immediately before the coming into force of this Order in connection with any functions transferred by article 2(3) or (4) or article 3(5), (6), (7), (8), (9) or (10) of this Order are hereby transferred to the Secretary of State to whom the transferred function is entrusted on the coming into force of this Order.

(3) Paragraphs (1) and (2) do not apply in relation to—

- (a) any property outside the United Kingdom which is not capable of transfer by this Order; and
- (b) rights and liabilities of the Minister of Agriculture, Fisheries and Food or a Secretary of State in relation to any such property.

(4) The person from time to time holding office as Secretary of State for Environment, Food and Rural Affairs shall by virtue of that office be Minister of Agriculture, Fisheries and Food so long as any property, rights or liabilities of the kind mentioned in paragraph (3) remain vested in that Minister.

(5) Paragraph (2) does not operate so as to transfer property, rights or liabilities to which a Secretary of State is entitled or subject immediately before the coming into force of this Order in connection with a function if that Secretary of State is the Secretary of State to whom the function is entrusted on the coming into force of this Order.

Specific modifications of enactments and instruments

5.—(1) The amendments specified in Schedule 1 (consequential amendments) shall have effect.

(2) The repeals and revocations specified in Schedule 2 shall have effect.

(3) Any amendment made by virtue of paragraph (1) to a reference to the Minister of Agriculture and Fisheries or his department which has effect as a reference to the Minister of Agriculture, Fisheries and Food or his department by virtue of article 3(3) of the Transfer of Functions (Ministry of Food) Order 1955⁽¹⁹⁾ shall not apply to the reference to the Minister of Agriculture and Fisheries or his department so far as it continues to have effect in relation to matters past at the coming into force of the Order of 1955.

(4) Sections 6(2) and 7 of the Board of Agriculture Act 1889⁽²⁰⁾ and section 1(2) of the Ministry of Agriculture and Fisheries Act 1919⁽²¹⁾ shall continue to apply on and after the coming into force

⁽¹⁹⁾ S.I. 1955/554 (“the 1955 Order”).

⁽²⁰⁾ 1889 c. 30. References in section 6(2) and 7 to the Board of Agriculture and the President of the Board were amended by section 1 of the Board of Agriculture and Fisheries Act 1903 (c. 31), section 1 of the Ministry of Agriculture and Fisheries Act 1919 (c. 91) and the 1955 Order, art. 3. References in section 6(2) and 7 to the secretary were amended by section 2(2) of the Board of Agriculture and Fisheries Act 1903 (c. 31) and section 1(1) of the Board of Agriculture and Fisheries Act 1909

of this Order in relation to the Secretary of State for Environment, Food and Rural Affairs in his capacity as Minister of Agriculture, Fisheries and Food.

(5) In their continued application by virtue of paragraph (4), sections 6(2) and 7 of the Act of 1889 and section 1(2) of the Act of 1919 shall have effect as they had effect immediately before the coming into force of this Order except that—

- (a) section 6(2) of the Act of 1889 shall have effect, in relation to the authentication of the official seal, as if it provided for the official seal to be authenticated by the signature of the Secretary of State for Environment, Food and Rural Affairs in his capacity as Minister of Agriculture, Fisheries and Food or of some person authorised by him to act on his behalf;
- (b) section 7(1) of that Act shall have effect as if the reference to every document purporting to be signed by a secretary or any person authorised by the President of the Board to act on behalf of the secretary were a reference to every document purporting to be signed by any person authorised by the Secretary of State for Environment, Food and Rural Affairs in his capacity as Minister of Agriculture, Fisheries and Food to act on his behalf; and
- (c) section 1(2) of the Act of 1919 shall have effect as if the reference to the Ministry of Agriculture and Fisheries were a reference to the Department for Environment, Food and Rural Affairs.

(6) The repeal of section 7 of the Act of 1889 (and of any enactments amending that section) shall not apply in relation to documents sealed or signed, or (as the case may be) certificates signed, before the coming into force of this Order.

Other supplementary provisions

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

(2) Anything (including any legal proceedings) which, at the coming into force of this Order, is in the process of being done by or in relation to the transferor may, so far as it relates to anything transferred by this Order, be continued by or in relation to the transferee.

(3) Anything done (or having effect as if done) by or in relation to the transferor for the purposes of or in connection with anything transferred by this Order shall, if in force at the coming into force of this Order, have effect as if done by or in relation to the transferee in so far as that is required for continuing its effect after the coming into force of this Order.

(4) Subject to paragraphs (5) to (13), any enactment or instrument passed or made before the coming into force of this Order shall have effect, so far as may be necessary for the purposes of or in consequence of any transfer effected by this Order or the dissolution of the Ministry of Agriculture, Fisheries and Food, as if any references (including references which are to be construed as such references) to the transferor or his department or officers were references to the transferee or his department or officers, as the context may require.

(5) Any enactment or instrument passed or made before the coming into force of this Order shall have effect, so far as may be necessary for the purposes of or in consequence of a function ceasing to be exercisable by the Minister of Agriculture, Fisheries and Food by virtue of article 2 or 3 as read with article 1(3), as if any references (including references which are to be construed as such references) to the Minister of Agriculture, Fisheries and Food or his department or officers were omitted.

(c. 15) (as amended or (in part) repealed by section 11 of, and Schedule 4 to, the Ministers of the Crown Act 1937 (c. 38) and section 4(1) of, and Schedule 1 to, the Ministers of the Crown (Parliamentary Secretaries) Act 1960 (c. 6)).

(21) References to the Minister of Agriculture and Fisheries and the Ministry of Agriculture and Fisheries were amended by the 1955 Order, art. 3.

(6) Any enactment or instrument passed or made before the coming into force of this Order shall have effect, so far as may be necessary for the purposes of or in consequence of any transfer effected by this Order from the Minister of Agriculture, Fisheries and Food to the Secretary of State of a share of a function which is exercisable by the Minister of Agriculture, Fisheries and Food acting alone concurrently with (whether with or without others) a named Secretary of State (however described) acting alone, as if any references (including references which are to be construed as such references) to the Minister of Agriculture, Fisheries and Food and the named Secretary of State, or either of them, or their departments or officers were references to the Secretary of State or his department or officers, as the context may require.

(7) Any enactment or instrument passed or made before the coming into force of this Order shall have effect, so far as may be necessary for the purposes of or in consequence of any transfer effected by this Order from the Minister of Agriculture, Fisheries and Food to the Secretary of State of, or in connection with, any function or share of a function which is exercisable only with the agreement of, or after consulting with, the Secretary of State acting alone as if any requirement for the agreement of, or (as the case may be) for consultation with, the Secretary of State in connection with the exercise of the function were omitted.

(8) Any enactment or instrument passed or made before the coming into force of this Order shall have effect, so far as may be necessary for the purposes of or in consequence of any transfer effected by this Order from the Minister of Agriculture, Fisheries and Food acting alone to the Secretary of State of, or in connection with, any function of deciding whether to agree with, or of being consulted by, the Secretary of State (whether acting alone or jointly) as if any such function were omitted.

(9) Documents or forms printed or duplicated for use in connection with any function of the Minister of Agriculture, Fisheries and Food may, subject to paragraph (10), be used in connection with that function on and after the coming into force of this Order notwithstanding that they contain, or are to be construed as containing, references to the Minister of Agriculture, Fisheries and Food, the Ministry of Agriculture, Fisheries and Food or any officer of either of them.

(10) For the purposes of the use of any such documents or forms on or after the coming into force of this Order, those references shall be construed in accordance with paragraphs (4) to (8).

(11) Paragraphs (4) to (8) are subject to any specific amendment, repeal or revocation made by this Order but any such amendment, repeal or revocation is without prejudice to the operation of those paragraphs in relation to anything not specifically dealt with by that amendment, repeal or revocation.

(12) Section 5(1) of the Government Resources and Accounts Act 2000⁽²²⁾ shall apply, in relation to the Department for Environment, Food and Rural Affairs and resource accounts in its name, as if the resources acquired, held, disposed of or used by the Ministry of Agriculture, Fisheries and Food during the relevant financial year and before its dissolution had been acquired, held, disposed of or (as the case may be) used by the Department for Environment, Food and Rural Affairs.

(13) In paragraph (12) “relevant financial year” means the year ending with 31st March 2002.

Clerk of the Privy Council

(22) 2000 c. 20.