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STATUTORY INSTRUMENTS

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**1999 No. 672**

**The National Assembly for Wales  
(Transfer of Functions) Order 1999**

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the National Assembly for Wales (Transfer of Functions) Order 1999.

(2) This Order shall come into force on 1st July 1999 immediately after the coming into force of section 53 of the Scotland Act 1998(1) but, if that section does not come into force on 1st July 1999, this Order shall come into force on that date.

(3) In this Order—

“the 1965 transfer order” means the Secretary of State for Wales and Minister of Land and Natural Resources Order 1965(2);

“the 1969 transfer order” means the Transfer of Functions (Wales) Order 1969(3);

“the 1978 transfer order” means the Transfer of Functions (Wales) (No. 1) Order 1978(4);

“the Act” means the Government of Wales Act 1998;

“the Assembly” means the National Assembly for Wales;

“the catchment areas of the rivers Dee, Wye and Severn” means the areas delineated by a continuous red line on the map published by the Environment Agency (but not part of this Order) on 10th February 1999 and marked “Map indicating the catchment areas of the rivers Dee, Wye and Severn for the purposes of the National Assembly for Wales (Transfer of Functions) Order 1999—map reference EAW/TFO.1(1—7)”.

**Transfer of functions**

2. Schedule 1 to this Order shall have effect as follows—

- (a) except as provided in sub-paragraphs (b)-(f), all functions of a Minister of the Crown under the enactments specified in Schedule 1 are, so far as exercisable in relation to Wales, transferred to the Assembly;
- (b) where so directed in Schedule 1 functions exercisable by a Minister of the Crown shall, so far as exercisable in relation to Wales, be exercisable by the Assembly concurrently with the Minister;
- (c) it is directed that (except in the case of functions which are exercisable by the Assembly “jointly” with a Minister of the Crown) functions under any of the enactments specified in Schedule 1 which are exercisable by a Minister of the Crown in relation to a cross-border body but which, by their nature, are not functions which can be specifically exercised in

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(1) 1998 c. 46. In terms of article 2(1) of the Scotland Act 1998 (Commencement) Order 1998 (S.I. 1998/3178), section 53 comes into force on 1st July 1999.

(2) S.I. 1965/319.

(3) S.I. 1969/388.

(4) S.I. 1978/272.

relation to Wales, shall be exercisable by the Assembly in relation to that body concurrently with the Minister of the Crown;

- (d) where so indicated in Schedule 1, functions of a Minister of the Crown under the enactments specified therein are transferred to the Assembly in relation to Wales (or such part of Wales as may be specified) together with such English border area as is specified;
- (e) Schedule 1 does not transfer any power under which provisions of an Act of Parliament may be brought into force by order made by a Minister of the Crown;
- (f) Schedule 1 does not transfer any functions of the Lord Chancellor or the Attorney General;
- (g) functions of the Comptroller and Auditor General shall, as indicated in Schedule 1, be transferred to, or become functions also of, the Auditor General for Wales;
- (h) all other provisions contained in Schedule 1 in relation to the enactments specified therein shall have effect.

**3.** Any reference in this Order to a function of a Minister of the Crown under an enactment includes a reference to any functions of that Minister which are included in any scheme, regulations, rules, order, bye-laws or other instrument having effect under or in relation to that enactment, and the power to confer functions on that Minister by any such scheme, regulations, rules, order, bye-laws or other instrument shall have effect as a power to confer such functions on the Assembly.

**4.—(1)** This article applies where—

- (a) any function under an enactment is expressly required to be exercised by two or more Ministers of the Crown acting “jointly”, and
- (b) any transfer in respect thereof in this Order does not transfer to the Assembly the functions of all such Ministers of the Crown.

(2) Where this article applies, section 42 of the Act shall not have effect to allow the function to be exercised by the Assembly otherwise than in accordance with the joint action requirement.

#### **Minister of the Crown functions exercisable with Assembly agreement or consultation**

**5.—(1)** Subject to paragraph (2) of this article, it is directed that functions exercisable by a Minister of the Crown under the enactments specified in Schedule 2 to this Order shall, so far as they are exercisable in relation to Wales and as specified in the said Schedule, be exercisable by the Minister only with the agreement of, or after consultation with, the Assembly.

(2) In respect of the enactments referred to in paragraph 4(1)(a) and (b) of Schedule 3 to the Act, paragraph (1) of this article shall have effect not in respect of functions exercisable in relation to Wales but in respect of functions exercisable in relation to “Welsh controlled waters” as defined in paragraph 4(2) of the said Schedule 3.

#### **The sea adjacent to Wales**

**6.** For the purposes of the definition of “Wales” in the Act the boundary between those parts of the sea within the Severn and Dee Estuaries which are to be treated as adjacent to Wales and those which are not shall be, in each case, a line drawn between the co-ordinates set out in Schedule 3 to this Order.

#### **Transfer of property**

**7.** The provisions of section 23(1) of the Act shall not apply to—

- (a) the premises comprising Gwydyr House, Whitehall, London and the furnishings and equipment contained therein, or to any rights or liabilities relating thereto,

(b) any documentary or electronic records.

*A.K. Galloway*  
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