

SCHEDULE 3

Article 4

VARIATION OF THE 1999 TRANSFER ORDER

Schedule 1 to the 1999 transfer order is varied as follows :

(a) In the entry for the Harbours Act 1964 (c. 40), insert “14,” before “15” and omit the second paragraph.

(b) for the entry for the Mental Health Act 1983 (c. 20) substitute

“**Mental Health Act 1983 (c. 20)** except sections 41,42,45A (10) and (11), 45B to 51,

53, 71, 73 to 75, 80A, 81A, ,82A, 83A, 84, 85A, 86, and Schedule 2.

Functions under sections 80, 81 and 83 are transferred except in relation to a patient who is subject to one or more of the following, namely:

- (a) a restriction order;
- (b) a hospital direction;
- (c) a limitation direction; or
- (d) a restriction direction,

made under sections 41, 45A or, as the case may be, 49.

In section 19(3) and in paragraph (a) in the definition of “the managers” in section 145(1), references to a hospital vested in the Secretary of State for the purposes of his functions under the National Health Service Act 1977 shall have effect as if they included a reference to a hospital vested in the Assembly for purposes of its functions under that Act.

Section 23 (4) and (5) shall not apply to the exercise by the Assembly of the powers conferred by that section.

Section 24(3) shall have effect as if it applied to an application by the Assembly as well as to an application by the Secretary of State.

Sections 54(1) and 117(2A)(a) shall have effect as if references to a registered medical practitioner approved for the purposes of section 12 by the Secretary of State (including references to be construed as such) included a reference to such a practitioner approved by the Assembly.

Section 139(4) shall have effect as if after the words “the Secretary of State” there were inserted “the National Assembly for Wales”.

Section 142(1) shall have effect as if the reference to a government department included a reference to the Assembly.

The Treasury approval requirements under sections 119(1), 120(6) and 121(6) shall continue in effect so far as they relate to pensions.”.

(c) for the entry for the Building Act 1984 (c. 55) substitute —

“**Building Act 1984 (c. 55)** except —

- (a) sections 1,2,3(1), 5(1), 6,8(2), (3) and (6), 9(1), 11 to 13, 14, and 16(9);
- (b) section 16(10) so far as it relates to the function of prescribing fees;
- (c) sections 17 and 19(7);
- (d) section 20(5) so far as it relates to the function of prescribing the time and manner of appeals;

*Status: This is the original version (as it was originally made).*

- (e) sections 20(10), 35, 38(1), 43(3), 44, 47 to 49, 50 (except subsection (2)), 51 to 58, 92, 120 and Schedules 1 and 4; and
- (f) the Treasury function under section 87(4)

The Treasury approval requirement under section 87(3) shall continue in effect.”

- (d) for the entry for the Town and Country Planning Act 1990 (c. 8) substitute —

“**Town and Country Planning Act 1990 (c. 8)** except —

- (a) section 90(2);
- (b) the functions of the Ministers of the Crown other than the Secretary of State for Wales under sections 90(1), 101 and Schedule 8, 170(12), 238(1)(a), 239(1)(a), 241(1)(a), 263(3) and (4), 266, 268, 279(5) and (6), 305, 325 (9) and 336(3);
- (c) the functions of the Secretary of State for Trade and Industry under section 272(5) and (6); and
- (d) the Treasury functions under sections 293(3) and 336(2).

The requirement to consult the Lord Chancellor under section 20(5) shall continue in effect.

The functions of the Secretary of State as “the appropriate Minister” (in pursuance of the definition in section 265) are only transferred so far as they relate to water and sewerage undertakers.

It is directed that the functions under sections 304 and 321 shall be exercisable by the Assembly concurrently with the Secretary of State. The functions under section 304 shall be exercisable by the Assembly free from the requirement for Treasury consent.

The Treasury approval requirement under section 297(3) shall continue in effect.

The functions under sections 238, 239 and 241 shall apply to land vested in the Assembly under section 23 of the Government of Wales Act 1998 or otherwise which was acquired by a Minister of the Crown or other government department before it was so vested, as it applies to land acquired by the Assembly.

Paragraph 8(2)(b) of Schedule 6 shall have effect as if the references to the Welsh Office were references to the Assembly and in relation thereto the reference to the Parliamentary Commissioner Act 1967 (c. 13) shall have effect as if it were a reference to Schedule 9 to the Government of Wales Act 1998.”

- (e) for the entry for the Water Industry Act 1991 substitute —

“**Water Industry Act 1991 (c. 56)** except sections 1, 14, 15, 17, 24(2)(d), 27(3), 32 to 35, 92, 152(2), 193(3), 206(3)(e) and Schedules 1 and 4.

Functions under sections 2, 5, 6 to 13, 18 to 22, 24 (except 24(2)(d)), 26, 37 to 39, 65, 68 to 70, 74, 93A, 94 to 96, 101A, 103, 104, 143(3A), (7) and (8), 143A, 144A, 144B, 149, 150A, 153, 154, 156, 182, 195, 198 to 203, 205 and Schedule 5 are transferred to the Assembly, in relation to any water or sewerage undertaker whose area is wholly or mainly in Wales.

The function under section 28(4) is transferred in relation to the customer service committee to which is allocated any water or sewerage undertaker whose area is wholly or mainly in Wales.

Functions under section 67 are transferred to the Assembly as follows —

- (a) for the making of regulations concerning water supplied by water undertakers, the function is transferred in relation to any water undertaker whose area is wholly or mainly in Wales;

- (b) for the making of regulations concerning water supplied other than by a water undertaker, the function is transferred in relation to Wales.

Functions under sections 3, 86, 213 to 215 and paragraph 11(3)(b) of Schedule 6 shall be exercisable by the Assembly to the same extent as the powers, duties and other provisions to which those sections apply are exercisable by the Assembly.

In respect of the functions under sections 155, 167, 169(4) and (5) and Schedule 11 it is provided as follows —

- (a) functions under these provisions so far as relating to matters concerning the construction or enlargement of reservoirs are transferred to the Assembly in relation to Wales;
- (b) functions under these provisions so far as relating to matters other than the construction or enlargement of reservoirs are transferred to the Assembly in relation to such parts of Wales as are outside the catchment areas of the rivers Dee, Wye and Severn;
- (c) it is directed that functions under these provisions so far as relating to matters other than the construction or enlargement of reservoirs shall, in relation to such parts of Wales as are within the catchment areas of the rivers Dee, Wye and Severn, be exercisable by the Assembly concurrently with the Secretary of State.

The functions under section 208 of giving directions for the purpose of mitigating the effects of any civil emergency and the function of enforcing such directions are transferred to the Assembly in relation to any water or sewerage undertaker whose area is wholly or mainly in Wales and it is directed that the other functions under section 208 shall be exercisable by the Assembly concurrently with the Secretary of State in relation to any such undertakers.

It is directed that functions under sections 19(4), 20(9), 27(4), 207 and 221(4) shall be exercisable by the Assembly concurrently with the Ministers of the Crown by whom they are exercisable.

It is directed that the functions under section 152(1) shall be exercisable by the Assembly concurrently with the Secretary of State in relation to any water or sewerage undertaker whose area is wholly or mainly in Wales and it shall be so exercisable free from the Treasury approval requirement under section 152(2).

Article 2(c) of this Order shall not have effect in relation to those functions which, under the above provisions, are transferred to the Assembly in relation to any water or sewerage undertaker whose area is wholly or mainly in Wales.”

- (f) for the entry for the Nurses, Midwives and Health Visitors Act 1997, substitute —

“**Nurses, Midwives and Health Visitors Act 1997 (c. 24)** sections 5, 6(1)(e) and 17 so far as they relate to the Welsh National Board for Nursing, Midwifery and Health Visiting (“the Board”).

The functions under section 18 are transferred (so far as they relate to the Board) in relation to financial years beginning in and after 1999 except that in respect of section 18(6) they are transferred in relation to annual reports of the Board for years commencing on 1st April 1999 and after

The Treasury consent requirement under section 5(5), so far as it relates to pensions, and the Treasury approval requirement under section 18(1)(b), shall continue in effect.

**Status:** This is the original version (as it was originally made).

The functions of the Comptroller and Auditor General in section 18(2), (4), (5) and (7) are, in relation to statements of account prepared by the Board for financial years beginning in and after 1999, transferred to the Auditor General for Wales.”.

(g) the entry in relation to the Data Protection Act 1998 (c. 29) shall be omitted.