

**EXPLANATORY MEMORANDUM TO**  
**THE TRANSFER OF FUNCTIONS (OLYMPICS AND PARALYMPICS) ORDER 2007**

**2007 No. 2129**

1. This explanatory memorandum has been prepared by the Department for Culture, Media and Sport and is laid before Parliament by Command of Her Majesty.

2. **Description**

2.1 On 28<sup>th</sup> June 2007, the Prime Minister announced that responsibility within government for the Olympic Games and Paralympic Games would transfer from the Secretary of State for Culture, Media and Sport to the Minister for the Olympics (who also holds the office of Paymaster General), but that the officials supporting the Paymaster General in this role would remain within the Department for Culture, Media and Sport (“**DCMS**”). To give effect to that announcement, this instrument directs that specified functions of the Secretary of State in four statutes and one statutory instrument relating to the Olympic Games and Paralympic Games are to be exercisable concurrently with the Paymaster General.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None.

4. **Legislative Background**

4.1 This instrument is necessary to give effect to the Prime Minister’s announcement that the Paymaster General will be responsible within government for the Olympic Games and Paralympic Games. The instrument directs that functions of the Secretary of State under four statutes and one statutory instrument are to be exercisable concurrently with the Paymaster General. In practice, when a function is to be exercised personally by a Minister, it will be exercised by the Paymaster General and not the Secretary of State.

4.2 The instrument provides for the functions to be exercisable concurrently by the Paymaster General and Secretary of State (rather than for the transfer of the functions to the Paymaster General) to ensure that, where necessary and appropriate, the functions can be exercised, on a delegated basis, by officials in the DCMS in accordance with the *Carltona* principle. The *Carltona* principle provides for the delegated exercise of a Minister’s statutory functions by officials in that Minister’s department.

4.3 The functions that are dealt with in the instrument are as follows:

4.4.1 All functions under the London Olympic Games and Paralympic Games Act 2006 (“**the 2006 Act**”), except those under sections 5, 9(2)(a)(i), 10

to 18, 35(3)(c)(i) and 36(4)(c)(i) of, and paragraph 6(2) of Schedule 1 to, that Act.

4.4.2 All functions under the Olympic Symbol etc. (Protection) Act 1995 (“**the 1995 Act**”), except that under section 19(2) of that Act.

4.4.3 All functions under Part 3 of the Horserace Betting and Olympic Lottery Act 2004 (“**the 2004 Act**”), except those under sections 22(2), 25 and 32(2)(a)(i) of that Act.

4.4.4 Functions under sections 4, 11 and 33 of the National Lottery etc. Act 1993 (“**the 1993 Act**”), but only so far as they relate to Part 3 of the 2004 Act (pursuant to section 34(2), (7) and (11) of the 2004 Act).

4.4.5 All functions under the Olympic Lotteries (Payments out of Fund) Regulations 2006 (“**the 2006 Regulations**”).

## **5. Territorial Extent and Application**

5.1 This instrument applies to all of the United Kingdom.

## **6. European Convention on Human Rights**

6.1 The Secretary of State for Culture, Media and Sport has made the following statement regarding Human Rights:

In my view the provisions of the Transfer of Functions (Olympics and Paralympics) Order 2007 are compatible with the Convention rights.

## **7. Policy background**

7.1 On 28th June 2007, the Prime Minister announced a number of machinery of government changes, including the appointment of a Minister for the Olympics to be responsible within government for the Olympic Games and Paralympic Games. The Minister for the Olympics also holds the office of Paymaster General. The Prime Minister also announced that officials supporting the Paymaster General in her Olympics and Paralympics role would remain within the DCMS. The Prime Minister’s announcement necessitated that the Paymaster General be able to exercise functions in legislation relating to the Olympic Games and Paralympic Games which are currently vested in the Secretary of State and also that, where necessary and appropriate, DCMS officials be able to exercise those functions on a delegated basis.

7.2 The instrument gives effect to the Prime Minister’s announcement by providing that the relevant functions of the Secretary of State are to be exercisable concurrently by the Paymaster General. The functions that are dealt with in the Order may be broadly summarised as follows:

7.2.1 Responsibility for and oversight of the Olympic Delivery Authority, a non-departmental public body established under the 2006 Act.

- 7.2.2 The making of regulations to control advertising and street trading in the vicinity of Games venues.
  - 7.2.3 Functions relating to the London Olympics, Olympic and Paralympic association rights established under the 2006 Act and the 1995 Act.
  - 7.2.4 Control and management of the Olympic Lottery Distribution Fund established under Part 3 of the 2004 Act and functions relating to that Fund under the 2006 Regulations.
  - 7.2.5 Responsibility for and oversight of the Olympic Lottery Distributor, a non-departmental public body established under the Part 3 of the 2004 Act.
- 7.3 As has been noted in the “Legislative Background” section above, some functions in the 1995 and 2006 Acts and part 3 of the 2004 Act are not dealt with in the instrument. The reasons for this are set out below:
- 7.3.1 The 2006 Act: The functions in sections 5 and 10 to 18 (which relate to planning and transport) are, in practice, exercised by Secretaries of State other than the Secretary of State for Culture, Media and Sport (such as the Secretary of State for Transport) and do not need to be exercisable concurrently by the Paymaster General. The functions in section 9(2)(a)(i), 35(3)(c)(i) and 36(4)(c)(i) are to receive property, rights and liabilities after the conclusion of the Games (such as on dissolution of the Olympic Delivery Authority) and should remain with the Secretary of State. This is because the Secretary of State, unlike the Paymaster General, is a corporation sole with perpetual succession and it is therefore more appropriate for any property, rights and liabilities to be vested in the former rather than the latter. It is unnecessary to deal with the function in paragraph 6(2) of Schedule 1 (which relates to the appointment of the first Chief Executive of the Olympic Delivery Authority) as this function has been exercised and is spent.
  - 7.3.2 The 1995 Act: It is unnecessary to deal with the function in section 19(2) (which is to provide by order for the commencement of the 1995 Act) as this function has been exercised and is spent.
  - 7.3.3 Part 3 of the 2004 Act: The function in section 25 (which relates to payments into the Olympic Lottery Distribution Fund from the National Lottery Distribution Fund) is related to the Secretary of State’s management of the National Lottery Distribution Fund pursuant to section 21 of the 1993 Act, and should remain with the Secretary of State. The function in section 32(2)(a)(i) is to receive property, rights and liabilities on the dissolution of the Olympic Lottery Distributor and should remain with the Secretary of State (because, as noted above, the Secretary of State is a corporation sole with perpetual succession). It is unnecessary to deal with the function in section 22(2) (which relates to the making of an order declaring London as the host city of the 2012 Games) as this function has been exercised and is spent.

## **8. Impact**

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 This instrument will not impact on the public sector.

## **9. Contact**

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