
EXPLANATORY NOTE

(This note is not part of the Order)

Section 28 of the Government of Wales Act 1998 gives the National Assembly for Wales (the “Assembly”) powers to reform certain public bodies in Wales listed in Schedule 4 to that Act. The section includes the power to transfer functions and to abolish such bodies where all their functions have been transferred.

This Order transfers the functions, property, rights and liabilities of the Welsh Development Agency (the “Agency”) to the Assembly, provides for the transfer of staff from the Agency to the Assembly and makes appropriate consequential, incidental, transitional and supplementary provisions. It also abolishes the Agency.

Article 2 provides for the transfer of the Agency’s functions to the Assembly on *1 April 2006*. This article also provides for the transfer of the Agency’s staff, property, rights and liabilities to the Assembly. These include where relevant the property, rights and liabilities transferred to the Agency from the Welsh Industrial Estates Corporation under section 7 of the Welsh Development Agency Act 1975 (c. 70) (the “1975 Act”) and the land (and rights and liabilities relating to it) held under the Local Employment Act 1972 (c. 5) transferred to the Agency under section 8 of the 1975 Act. Staff are transferred on the basis of the principles established by the Transfer of Undertakings (Protection of Employment) Regulations 1981 (SI 1981/1794).

Article 3 makes certain transitional provisions relating to the property, rights and liabilities and for the substitution of the Assembly for the Agency in all relevant instruments, contracts or legal proceedings.

It also provides that the Agency’s statement of account for the financial year 2005-2006 is to be prepared by the Assembly. The statement of account for 2005-2006 is also to be sent to the Auditor General for Wales and copies subsequently laid before the Assembly together with the Auditor General’s report in the usual way.

Article 4 makes provision to ensure that the transfer of property from the Agency to the Assembly has a neutral effect in terms of the calculation of industrial building allowances under the Capital Allowances Act 2001.

Article 5 provides that after the Agency’s functions, property, rights and liabilities have all been transferred to the Assembly, the Agency is abolished.

Article 6 makes formal provision to reflect joint working between the Assembly and the Agency for the purpose of facilitating the transfer of functions.

Article 7 brings into effect on 1 April 2006 Schedules 1 and 2 to the Order, which make amendments to primary and secondary legislation that are consequential upon and incidental to the transfer of functions and abolition of the Agency. The most substantive changes are to the 1975 Act.

Compulsory purchase orders made by the Assembly under powers contained in the 1975 Act are divided into two categories. Where the land is in Wales, the procedures followed will be those in Schedule 1 to the Acquisition of Land Act 1981. Where the land is in England (but nevertheless relates to the Assembly’s functions under the Act) the procedure followed will be that in Part 2 of the Acquisition of Land Act 1981, reflecting the requirement in the case of land in England to obtain the consent of the Secretary of State.

Changes to legislation: There are currently no known outstanding effects for the The Welsh Development Agency (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005. (See end of Document for details)

References to the functions of the “Secretary of State” have been amended to being functions of the “Assembly” on the face of the 1975 Act where appropriate so as to reflect the effect of the National Assembly for Wales (Transfer of Functions) Order 1999 ([SI 1999/672](#)).

However, in connection with the exercise by the Assembly of any of its functions, references to a Minister of the Crown or a government department in other enactments continue to be construed where necessary, as being or including the Assembly in accordance with section 43 of the Government of Wales Act 1998.

Article 8 makes saving provisions in respect of any planning permission deemed to have been granted by virtue of section 7 of the 1975 Act for land transferred to the Agency from the Welsh Industrial Estates Corporation and for the continuity of employment of any members of Agency staff who had originally had their employment transferred from that Corporation under that section.

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