

2001 No. 3500

MINISTERS OF THE CROWN

The Transfer of Functions (Miscellaneous) Order 2001

Made - - - - - 31st October 2001

Laid before Parliament 5th November 2001

Coming into force - - 26th November 2001

At the Court at Buckingham Palace, the 31st day of October 2001

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in pursuance of sections 1 and 2 of the Ministers of the Crown Act 1975(a), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation and commencement

- 1.—(1) This Order may be cited as the Transfer of Functions (Miscellaneous) Order 2001.
- (2) This Order shall come into force on 26th November 2001.

Interpretation

2. In this Order—
 - (a) “instrument”, without prejudice to the generality of that expression, includes in particular Royal Charters, Royal Warrants, Orders in Council, Letters Patent, judgments, decrees, orders, rules, regulations, schemes, bye-laws, awards, contracts and other agreements, memoranda and articles of association, certificates, deeds and other documents, and
 - (b) a reference to a function of the Secretary of State includes a reference to a function of the Secretary of State for the Home Department and to anything which is required or authorised to be done in or by the office of that Secretary of State (whether by reference to “the Home Office”, “the Home Department” or otherwise).

Transfer from Home Secretary to Lord Chancellor

3. The functions listed in Schedule 1 to this Order are hereby transferred to the Lord Chancellor.

Functions passing from Home Secretary to Lord Chancellor: supplemental

- 4.—(1) This article applies to a function which—
 - (a) relates to a matter within paragraph (2),

(a) 1975 c. 26.

- (b) was entrusted to the Secretary of State for the Home Department immediately before 7th June 2001, and
- (c) has been entrusted to the Lord Chancellor before the making of this Order or is transferred to him by article 3 and Schedule 1.

(2) The matters mentioned in paragraph (1)(a) are—

- (a) the Monarchy,
- (b) titles,
- (c) ceremonial matters,
- (d) the relationship between the administration of any of the Channel Islands or of the Isle of Man and the Crown or a Minister of the Crown,
- (e) human rights,
- (f) bodies or organisations established or incorporated by Royal Charter,
- (g) appointments,
- (h) ecclesiastical matters,
- (i) marriage,
- (j) access to information (including, in particular, the subject matter of the Data Protection Act 1998^(a) and the Freedom of Information Act 2000^(b)), and
- (k) buildings and structures in London.

(3) A transfer by this Order of a function to which this article applies shall not affect the validity of anything done by or in relation to the Secretary of State for the Home Department before the coming into force of this Order.

(4) So far as is necessary in consequence of the entrusting or transfer to the Lord Chancellor of a function to which this article applies, an enactment or instrument passed or made before this Order comes into force shall have effect as if—

- (a) a reference to the Secretary of State or the Secretary of State for the Home Department were a reference to the Lord Chancellor,
- (b) a reference to the Home Department (or the “Home Office”) were a reference to the Lord Chancellor’s Department, and
- (c) a reference to an officer of the Home Department (or the “Home Office”) were a reference to an officer of the Lord Chancellor’s Department.

(5) Anything done by or in relation to the Secretary of State for the Home Department in connection with a function to which this article applies shall, so far as necessary for continuing its effect after the coming into force of this Order, have effect as if done by or in relation to the Lord Chancellor.

(6) Anything which is in the process of being done by or in relation to the Secretary of State for the Home Department when this Order comes into force may, if it relates to a function to which this article applies, be continued by or in relation to the Lord Chancellor.

(7) Legal proceedings to which the Secretary of State for the Home Department is party at the coming into force of this Order in relation to a function to which this article applies may be continued by or against the Lord Chancellor.

(8) Any property right or liability to which the Secretary of State for the Home Department is entitled or subject immediately before the coming into force of this Order in connection with a function to which this article applies is hereby transferred to the Lord Chancellor.

Transfer from Home Secretary to Secretary of State for Transport, Local Government and the Regions

5.—(1) The function of the Secretary of State for the Home Department under article 3 of the Fire Service College Trading Fund Order 1992^(c) (source of loans) is hereby transferred to the Secretary of State for Transport, Local Government and the Regions.

(a) 1998 c. 29.
(b) 2000 c. 36.
(c) S.I. 1992/640.

(2) The function of the Secretary of State for the Home Department under section 2(2)(b) of the Political Parties, Elections and Referendums Act 2000^(a) (membership of Speaker's Committee) is hereby transferred to the Secretary of State for Transport, Local Government and the Regions.

Functions passing from Home Secretary to other Secretaries of State: supplemental

- 6.—(1) This article applies to a function which—
- (a) relates to a matter within paragraph (2),
 - (b) was entrusted to the Secretary of State for the Home Department immediately before 7th June 2001, and
 - (c) has been entrusted to another Secretary of State before the making of this Order or is transferred by article 5.
- (2) The matters mentioned in paragraph (1)(a) are—
- (a) gambling,
 - (b) horse-racing,
 - (c) liquor licensing,
 - (d) late night refreshment,
 - (e) public entertainments,
 - (f) video recording (including, in particular, the subject matter of the Video Recordings Act 1984^(b)),
 - (g) films (including, in particular, the subject matter of the Cinemas Act 1985^(c)),
 - (h) street trading and pedlars,
 - (i) fairs,
 - (j) fire services and fire precautions (including, in particular, the subject matter of the Fire Services Act 1947^(d) and the Fire Precautions Act 1971^(e) and any provision which relates, or in so far as it relates, to a fire authority),
 - (k) elections,
 - (l) bye-laws, and
 - (m) animals.
- (3) In this article “the new Secretary of State” means—
- (a) in relation to the matters mentioned in paragraph (2)(a) to (g), the Secretary of State for Culture, Media and Sport,
 - (b) in relation to the matters mentioned in paragraph (2)(h) and (i), the Secretary of State for Trade and Industry,
 - (c) in relation to the matters mentioned in paragraph (2)(j) to (l), the Secretary of State for Transport, Local Government and the Regions, and
 - (d) in relation to the matter mentioned in paragraph 2(m), the Secretary of State for Environment, Food and Rural Affairs.
- (4) A transfer by this Order of a function to which this article applies shall not affect the validity of anything done by or in relation to the Secretary of State for the Home Department before the coming into force of this Order.
- (5) So far as is necessary in consequence of the entrusting or transfer to the new Secretary of State of a function to which this article applies, an enactment or instrument passed or made before this Order comes into force shall have effect as if—
- (a) a reference to the Secretary of State for the Home Department were a reference to the new Secretary of State,
 - (b) a reference to the Home Department (or the “Home Office”) were a reference to the department of the new Secretary of State, and
 - (c) a reference to an officer of the Home Department (or the “Home Office”) were a reference to an officer of the department of the new Secretary of State.

(a) 2000 c. 41.
(b) 1984 c. 39.
(c) 1985 c. 13.
(d) 1947 c. 41.
(e) 1971 c. 40.

(6) Anything done by or in relation to the Secretary of State for the Home Department in connection with a function to which this article applies shall, so far as necessary for continuing its effect after the coming into force of this Order, have effect as if done by or in relation to the new Secretary of State.

(7) Anything which is in the process of being done by or in relation to the Secretary of State for the Home Department when this Order comes into force may, if it relates to a function to which this article applies, be continued by or in relation to the new Secretary of State.

(8) Legal proceedings to which the Secretary of State for the Home Department is party at the coming into force of this Order in relation to a function to which this article applies may be continued by or against the new Secretary of State.

(9) Any property right or liability to which the Secretary of State for the Home Department is entitled or subject immediately before the coming into force of this Order in connection with a function to which this article applies is hereby transferred to the new Secretary of State.

Plant Varieties and Seeds (Isle of Man) Order 1969

7. The functions which arise by virtue of paragraph 9 of the Schedule to the Plant Varieties and Seeds (Isle of Man) Order 1969(a) (adaptation of Plant Varieties and Seeds Act 1964(b) to Isle of Man: definition of “Ministers”) are hereby transferred to the Secretary of State for Environment, Food and Rural Affairs and the Lord Chancellor acting jointly.

Consequential amendments

8. The enactments mentioned in Schedule 2 to this Order shall have effect with the amendments specified.

A. K. Galloway
Clerk of the Privy Council

(a) S.I. 1969/1829.
(b) 1964 c. 14.

FUNCTIONS TRANSFERRED TO THE LORD CHANCELLOR

Ceremonial

1. The function of the Secretary of State under section 2(4) of the Lieutenancies Act 1997(a) (consent to appointment of deputy lieutenant).
2. Functions of the Secretary of State for the Home Department under the Royal Warrant concerning the preparation and maintenance of the Official Roll of the Baronetage.

Channel Islands and Isle of Man

3. Functions of the Secretary of State under—
 - (a) the Schedule to the Channel Islands (Church Legislation) Measure 1931(b);
 - (b) the Royal Assent to Legislation (Isle of Man) Order 1981;
 - (c) the Royal Assent to Sodor and Man Diocesan Synod Measures Order 1994.
4. Any function of the Secretary of State which—
 - (a) is conferred by Letters Patent or Royal Warrant, and
 - (b) reflects a relationship between the administration of any of the Channel Islands or of the Isle of Man and the Crown or a Minister of the Crown.

Human rights

5. Functions of the Secretary of State under the Human Rights Act 1998(c) except for the powers under—
 - (a) section 2(3)(a) (interpretation of Convention: tribunal),
 - (b) section 7(9)(a) (proceedings),
 - (c) section 18(7) (judge of European Court of Human Rights), and
 - (d) section 22(3) (commencement).

Chartered associations

6. Functions of the Secretary of State under section 1(2) of the Chartered Associations (Protection of Names and Uniforms) Act 1926(d) (application for protection of name, uniform, &c. of chartered association).
7. Any function which—
 - (a) is conferred on or entrusted to the Secretary of State for the Home Department, and
 - (b) arises under a charter which provides for the incorporation or establishment of an organisation or body.

Appointments

8. The function of the Secretary of State for the Home Department of appointing a Conservator under section 12 of the Wimbledon and Putney Commons Act 1871(e).

Ecclesiastical

9. The function of the Secretary of State for the Home Department under section 12(2) of the Church Commissioners Measure 1947(f) (annual report and accounts).

(a) 1997 c. 23.
(b) 1931 No. 4.
(c) 1998 c. 42.
(d) 1926 c. 26.
(e) 1871 c. cciv.
(f) 1947 No. 2

Marriage

10. The functions of the Secretary of State under section 1 of the Provisional Order (Marriages) Act 1905**(a)** (doubt about validity of marriage).

Access to information

11. The functions of the Secretary of State under the Data Protection Act 1998**(b)** except for—

- (a) the function under section 6(4)(a) (chairman of Tribunal: consultation), and
- (b) the duty under section 25(1) (which relates to the first set of notification regulations and is therefore spent).

12. The functions of the Secretary of State under the Freedom of Information Act 2000**(c)** except for the power to make regulations under section 74 (Aarhus Convention on environmental matters).

Buildings and structures in London

13. Functions of the Secretary of State under the London Building Acts (Amendment) Act 1939**(d)**.

(a) 1905 c. 23.
(b) 1998 c. 29.
(c) 2000 c. 36.
(d) 1939 c. xcvi.

CONSEQUENTIAL AMENDMENTS

PART I

ACTS

The Wimbledon and Putney Commons Act 1871 (c. cciv)

1. In Section 12 of the Wimbledon and Putney Commons Act 1871 (appointment of Conservators) for the words “Secretary of State for the Home Department” there shall be substituted the words “the Lord Chancellor”.

The Provisional Order (Marriages) Act 1905 (c. 23)

2. In section 1 of the Provisional Order (Marriages) Act 1905—
- (a) in subsection (1), for the words “A Secretary of State” there shall be substituted the words “Lord Chancellor”, and
 - (b) in subsections (2) and (3) for the words “Secretary of State” there shall be substituted, in each place, the words “Lord Chancellor”.

The Chartered Associations (Protection of Names and Uniforms) Act 1926 (c. 26)

3. In Section 1(2) of the Chartered Associations (Protection of Names and Uniforms) Act 1926 (application for protection of name, uniform, &c. of chartered institution) for the words “Secretary of State” there shall be substituted, in each place, the words “Lord Chancellor”.

The London Building Acts (Amendment) Act 1939 (c. xviii)

4. In the following provisions of the London Building Acts (Amendment) Act 1939 for the words “Secretary of State” there shall be substituted, in each place, the words “Lord Chancellor”—
- (a) section 55(f) (settlement of disputes),
 - (b) section 109 (appeal tribunal), and
 - (c) section 110 (appeal tribunal: staff).

The Lieutenancies Act 1997 (c. 23)

5. In section 2(4) of the Lieutenancies Act 1997 (consent to appointment of deputy lieutenant) for the words “Secretary of State” there shall be substituted the words “Lord Chancellor”.

The Data Protection Act 1998 (c. 29)

- 6.—(1) In the following provisions of the Data Protection Act 1998 for the words “Secretary of State” there shall be substituted, in each place, the words “Lord Chancellor”—
- (a) section 6(4)(c) (appointment of members of Information Tribunal),
 - (b) section 7(10) (access to personal data),
 - (c) section 8(1) (request for information),
 - (d) section 9(3) (prescribed form),
 - (e) section 9A(5) (compliance with request),
 - (f) section 10(2)(b) (processing of data),
 - (g) section 12(5)(b) (automatic decision-making),
 - (h) section 16(2) (fees regulations and notification regulations),
 - (i) section 17(3) (unregistered processing of personal data),
 - (j) section 22(1) and (7) (assessment by Commissioner),
 - (k) section 23(1) (data protection supervisors),
 - (l) section 25(2), (3) and (4) (involvement of Commissioner in making notification regulations),
 - (m) section 26(2) (fees regulations),
 - (n) section 30(1), (2) and (3) (health education and social work),
 - (o) section 32(3)(b) (journalism, literature and art),

- (p) section 38(1) and (2) (exemptions),
- (q) section 51(3)(a) and (8) (Commissioner: general functions),
- (r) section 52(3) (code of practice),
- (s) section 54(2), (3), (4) and (5) (Convention and international functions),
- (t) section 56(8) (prohibition of requirement to produce records),
- (u) section 64(3) (document to be in writing),
- (v) section 67(1), (2) and (3) (subordinate legislation),
- (w) section 75(3) (commencement),
- (x) Schedule 1 (data protection principles), Part II (interpretation), paragraphs 3(1), 4(1) and 14,
- (y) Schedule 2 (first principle: personal data: conditions), paragraph 6(2),
- (z) Schedule 3 (first principle: sensitive personal data: conditions), paragraphs 2(2), 7(2), 9(2) and 10,
- (aa) Schedule 4 (eighth principle: exceptions), paragraph 4(2),
- (bb) Schedule 5 (Commissioner and Tribunal), paragraphs 4(5), 8, 9(1), (2) and (3), 10(1)(b), 13, 14 and 15,
- (cc) Schedule 6 (appeal), paragraph 7(1), (2)(k) and (3), and
- (dd) Schedule 7 (exemptions), paragraphs 4 and 6(2).

(2) In section 25(4)(a) of that Act (involvement of Commissioner in making notification regulations) for the words “subsection (1), (2) or (3)” there shall be substituted the words “subsection (2) or (3)”.

(3) In paragraph 12(2) of Schedule 5 to that Act (Commissioner and Tribunal) the words from “(in the case of the chairman” to the end shall cease to have effect.

The Human Rights Act 1998 (c. 42)

7. In the following provisions of the Human Rights Act 1998 for the words “Secretary of State” there shall be substituted the words “Lord Chancellor”—

- (a) section 1(4) (power to amend Act),
- (b) section 14(1)(b), (4) and (5) (derogation),
- (c) section 15(1)(b), (4) and (5) (reservation), and
- (d) section 16(2) and (7) (derogation: duration).

The Freedom of Information Act 2000 (c. 36)

8.—(1) In the following provisions of the Freedom of Information Act 2000 for the words “Secretary of State” there shall be substituted, in each place, the words “Lord Chancellor”—

- (a) section 4(1), (5) and (7) (amendment of list of public authorities),
- (b) section 5(1) and (3) (additional authorities),
- (c) section 7(3), (4) and (8) (limited application),
- (d) section 9(3) (fees),
- (e) section 10(4) (timing),
- (f) section 12(4) and (5) (cost of compliance),
- (g) section 13(1) (fees),
- (h) section 45(1), (4) and (5) (code of practice) (as a result of which the words “Secretary of State” in the sidenote to section 45 and in the heading of Part III become redundant),
- (i) section 47(4) (charge for services of Commissioner),
- (j) section 53(1)(a)(iii) and (5) (decision or enforcement notice: exemption),
- (k) section 75(1) and (3)(a) and (b) (amendment of legislation),
- (l) section 83(2) and (3) (Welsh public authority),
- (m) in section 84 (interpretation), the definition of “prescribed”,
- (n) section 85(a) and (b) (expenses), and
- (o) section 87(3), (4) and (5) (commencement).

(2) Section 46(5)(a) of that Act (code of practice: Lord Chancellor to consult Secretary of State) shall cease to have effect.

(3) In section 82(1) of that Act (orders and regulations) after the words “any power of the” there shall be inserted the words “Lord Chancellor or the”.

The Political Parties, Elections and Referendums Act 2000 (c. 41)

9.—(1) In section 2(2)(b) of the Political Parties, Elections and Referendums Act 2000 (membership of Speaker's Committee) for the words "Secretary of State for the Home Department" there shall be substituted the words "Secretary of State for Transport, Local Government and the Regions".

(2) In paragraph 2(1)(c) of Schedule 2 to that Act (Speaker's Committee: term of office) for the words "Secretary of State for the Home Department" there shall be substituted the words "Secretary of State for Transport, Local Government and the Regions".

PART II
OTHER LEGISLATION

The Channel Islands (Church Legislation) Measure 1931 (No. 4)

10. In the Schedule to the Channel Islands (Church Legislation) Measure 1931—
- (a) in paragraph 3 for the words "Secretary of State for the Home Department" there shall be substituted the words "Lord Chancellor", and
 - (b) in paragraph 5 for the words "said Secretary of State" there shall be substituted the words "Lord Chancellor".

The Church Commissioners Measure 1947 (No. 2)

11. In section 12(2) of the Church Commissioners Measure 1947 (annual report and accounts) for the words "Secretary of State for the Home Department" there shall be substituted the words "Lord Chancellor".

The Plant Varieties and Seeds (Isle of Man) Order 1969 (S.I. 1969/1829)

12. In paragraph 9 of the Schedule to the Plant Varieties and Seeds (Isle of Man) Order 1969 (definition of Ministers) for the substituted definition of Ministers there shall be substituted—
"“The Ministers” means the Secretary of State for Environment, Food and Rural Affairs and the Lord Chancellor acting jointly;”.

The Royal Assent to Legislation (Isle of Man) Order 1981

13. In articles 3 and 4 of the Royal Assent to Legislation (Isle of Man) Order 1981 for the words "Secretary of State" there shall be substituted, in each place, the words "Lord Chancellor".

The Company and Business Names Regulations 1981 (S.I. 1981/1685)

14. At the end of the Schedule to the Company and Business Names Regulations 1981 (names requiring approval of Secretary of State) the following shall be added—

“**Note:** The reference in Column (2) to the Home Office shall be treated as a reference to the Lord Chancellor's Department in relation to the following entries in Column (1)—

- (a) Duke,
- (b) Her Majesty,
- (c) His Majesty,
- (d) King,
- (e) Prince,
- (f) Princess,
- (g) Queen,
- (h) Royal,
- (i) Royale,
- (j) Royalty, and
- (k) Windsor.”.

The Fire Service College Trading Fund Order 1992 (S.I. 1992/640)

15. In article 3 of the Fire Service College Trading Fund Order 1992 (source of loans) for the words “Secretary of State for the Home Department” there shall be substituted the words “Secretary of State for Transport, Local Government and the Regions”.

The Royal Assent to Sodor and Man Diocesan Synod Measures Order 1994

16. In articles 3 and 4 of the Royal Assent to Sodor and Man Diocesan Synod Measures Order 1994 for the words “Secretary of State” there shall be substituted, in each place, the words “Lord Chancellor”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order transfers to other ministers functions formerly entrusted to the Home Secretary and makes provision in connection with the entrusting to other ministers of those functions and of other functions formerly entrusted to the Home Secretary.

Article 3 transfers to the Lord Chancellor the functions set out in Schedule 1, which include in particular the functions of the Secretary of State under the Data Protection Act 1998, the Human Rights Act 1998 and the Freedom of Information Act 2000.

Article 4 makes supplemental provision in relation to the transfers of functions effected by article 3 and in relation to the entrusting to the Lord Chancellor of other functions formerly entrusted to the Home Secretary. Those other functions include in particular functions in relation to the Monarchy, the Channel Islands and the Isle of Man, ecclesiastical matters and marriage.

Article 5 transfers to the Secretary of State for Transport, Local Government and the Regions the Home Secretary's function as the source of loans to the Fire Service College trading fund and his membership of the Speaker's Committee.

Article 6 makes supplemental provision in relation to the transfers of functions effected by article 5 and in relation to the entrusting to other Secretaries of State of other functions formerly entrusted to the Home Secretary. Those other functions include in particular functions in relation to gambling, horse-racing and liquor licensing (transferred to the Secretary of State for Culture, Media and Sport), functions in relation to street trading (transferred to the Secretary of State for Trade and Industry), functions in relation to fire services, fire precautions and elections (transferred to the Secretary of State for Transport, Local Government and the Regions) and functions in relation to animals (transferred to the Secretary of State for Environment, Food and Rural Affairs).

Article 7 transfers to the Secretary of State for Environment, Food and Rural Affairs and the Lord Chancellor, acting jointly, functions in relation to plant varieties and seeds in the Isle of Man.

Article 8 and Schedule 2 make consequential amendments to legislation.

2001 No. 3500

MINISTERS OF THE CROWN

The Transfer of Functions (Miscellaneous) Order 2001

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