

**EXPLANATORY MEMORANDUM TO THE  
NATIONAL ASSEMBLY FOR WALES (TRANSFER OF FUNCTIONS)  
ORDER 2005**

**2005 No.1958**

1. This explanatory memorandum has been prepared by the Wales Office and is laid before Parliament by Command of Her Majesty.

2. **Description**

This instrument makes provision for and in connection with the transfer to the National Assembly for Wales (“the Assembly”) of the functions of the Secretary of State under or in relation to section 2 of the Pollution Prevention and Control Act 1999 (“the 1999 Act”) so far as they are exercisable in relation to Wales but with the exception of functions relating to offshore oil and gas exploration and exploitation. The transferred functions relate to the regulation of polluting activities in accordance with Council Directive 96/61/EC.

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

This instrument is made under sections 22 and 24(1) of, and paragraphs 1, 3 and 4 of Schedule 3 to, the Government of Wales Act 1998 and section 22(4)(a) of that Act provides that no recommendation shall be made to Her Majesty in Council to make an Order in Council under section 22 unless a draft of the instrument containing it has first been laid before, and approved by a resolution of, each House of Parliament. However, section 5 of the 1999 Act provides that, if an Order in Council under section 22 of Government of Wales Act 1998 contains a statement that it makes no provision which is not provision about functions under that Act, or provision in connection with such provision, the Order in Council shall not be subject to subsection (4)(a) of section 22 but shall be subject instead to annulment in pursuance of a resolution of either House of Parliament. This instrument contains such a statement at article 2.

4. **Legislative Background**

This instrument is the latest in a series of instruments to be made under section 22 of the Government of Wales Act 1998 which provides that Her Majesty may by Order in Council provide for the transfer to the Assembly of any function so far as exercisable by a Minister of the Crown in relation to Wales or direct that that any function so far as so exercisable shall be exercisable by the Assembly concurrently with the Minister of the Crown.

5. **Extent**

This draft instrument applies to England and Wales.

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

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

The responsibility for environmental policy in Wales rests predominantly with the Assembly as the result of the transfer to it by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) of a range of functions in connection with the control of pollution and the management of waste. The Explanatory Notes to the 1999 Act include a statement of intention to transfer to the Assembly the functions under section 2 of that Act, so far as exercisable in Wales, and this instrument gives effect to that intention. The transfer will lead to greater consistency in, and clearer accountability for, environmental controls in Wales.

## **8. Impact**

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

## **9. Contact**

Roger Bonehill at the Wales Office, Tel: 029 2089 8564 or e-mail: [roger.bonehill@walesoffice.gsi.gov.uk](mailto:roger.bonehill@walesoffice.gsi.gov.uk), can answer any queries regarding this instrument.