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STATUTORY INSTRUMENTS

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**2008 No. 1034**

**MINISTERS OF THE CROWN**

**The Transfer of Functions (Miscellaneous) Order 2008**

*Made* - - - - 9th April 2008  
*Laid before Parliament* 16th April 2008  
*Coming into force* - - 7th May 2008

At the Court at Windsor Castle, the 9th day of April 2008

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred by sections 1 and 2 of the Ministers of the Crown Act 1975(1), is pleased, by and with the advice of Her Privy Council, to order as follows:

**Citation and commencement**

- 1.—(1) This Order may be cited as the Transfer of Functions (Miscellaneous) Order 2008.
- (2) This Order comes into force on 7 May 2008.

**Interpretation**

2. In this Order—
  - (a) “instrument” 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;
  - (b) a reference to the functions of a Minister under an enactment includes a reference to the functions of that Minister under an instrument having effect under that enactment.

**National Trust**

3. The functions of the First Secretary of State under section 23 of the National Trust Act 1971(2) (consent to building on commons) are transferred to the Secretary of State.

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(1) 1975 c. 26.

(2) 1971 c. vi. Section 23 is amended by the Commons Act 2006 (c. 26) ss. 44(1) and 53 and Sch. 4, para. 4. In this Act and certain other enactments references to the Secretary of State for the Environment have effect as references to the First Secretary of

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## Somerset House

4. The functions of the First Secretary of State under section 1 of the Somerset House Act 1984(3) are transferred to the Secretary of State for Communities and Local Government.

## Functions as “appropriate Minister” in relation to statutory undertakers

5. The functions of the Secretary of State or a particular Secretary of State by virtue of the definition of “appropriate Minister” in the enactments in column 1 below are transferred as shown in column 2—

<i>Enactment</i>	<i>Transferee</i>
Opencast Coal Act 1958 s. 51(1), para. (a) of the definition(4)	Secretary of State for Transport
Opencast Coal Act 1958 s. 51(1), para. (g) of the definition	Secretary of State for Communities and Local Government
New Towns Act 1981 s. 78(1)(a) (5)	Secretary of State for Transport
New Towns Act 1981 s. 78(1)(f)	Secretary of State for Communities and Local Government

## Transport functions

6. Any functions of the First Secretary of State that were functions of the Secretary of State for Transport immediately before the coming into force of the Secretary of State for the Environment, Transport and the Regions Order 1997(6) are transferred to the Secretary of State.

## Other functions of the First Secretary of State

7. Any functions of the First Secretary of State not transferred by any other provision of this Order are transferred to the Secretary of State.

## Transfer of property, rights and liabilities to Secretary of State for Environment, Food and Rural Affairs

8. There are transferred to the Secretary of State for Environment, Food and Rural Affairs all property, rights and liabilities to which the First Secretary of State is entitled or subject at the coming into force of this Order in connection with functions transferred by article 3.

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State, by virtue of the Secretary of State for the Environment, Transport and the Regions Order (S.I. 1997/2971), the Secretaries of State for Transport, Local Government and the Regions and for Environment, Food and Rural Affairs Order 2001 (S.I. 2001/2568) and the Transfer of Functions (Transport, Local Government and the Regions) Order 2002 (S.I. 2002/2626). That is subject to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and, in the case of enactments extending to Scotland, sections 53 and 117 of the Scotland Act 1998 (c. 46). By virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c.32), certain functions conferred on the National Assembly for Wales are exercisable by the Welsh Ministers.

(3) 1984 c. 21. For the effect of references to the Secretary of State for the Environment see the footnote to article 3 above.

(4) 1958 c. 69. The definition was inserted by the Secretary of State for Transport Order 1976 (S.I. 1976/1775). Other amendments have been made to s. 51 which are not relevant to this Order. See also the orders referred to in the footnote to article 3 above.

(5) 1981 c. 64. Amendments have been made to s. 78 which are not relevant to this Order. See also the orders referred to in the footnote to article 3 above.

(6) S.I. 1997/2971.

### **Transfer of property, rights and liabilities to Secretary of State for Transport**

9. There are transferred to the Secretary of State for Transport all property, rights and liabilities to which the First Secretary of State is entitled or subject at the coming into force of this Order in connection with—

- (a) functions transferred by article 5 to the Secretary of State for Transport;
- (b) functions transferred by article 6;
- (c) functions that were entrusted to the First Secretary of State and that have before the making of this Order been entrusted to the Secretary of State for Transport.

### **Transfer of property, rights and liabilities to Secretary of State for Communities and Local Government**

10. There are transferred to the Secretary of State for Communities and Local Government all property, rights and liabilities to which the First Secretary of State is entitled or subject at the coming into force of this Order in connection with—

- (a) functions transferred by article 4 or 5 to the Secretary of State for Communities and Local Government;
- (b) functions transferred by article 7.

### **Supplemental—**

11.—(1) In this article “the transferee” means—

- (a) the Secretary of State, in relation to anything transferred by article 3, 6 or 7;
- (b) the Secretary of State for Environment, Food and Rural Affairs, in relation to anything transferred by article 8;
- (c) the Secretary of State for Transport, in relation to anything transferred to that Secretary of State by article 5 or 9;
- (d) the Secretary of State for Communities and Local Government, in relation to anything transferred to that Secretary of State by article 4, 5 or 10.

(2) This Order does not affect the validity of anything done (or having effect as if done) by or in relation to the First Secretary of State before the coming into force of this Order.

(3) Anything done by or in relation to the First Secretary of State in connection with anything transferred by this Order has effect, so far as necessary for continuing its effect after the coming into force of this Order, as if done by or in relation to the transferee.

(4) Anything (including legal proceedings) which is in the process of being done by or in relation to the First Secretary of State when this Order comes into force may, if it relates to functions transferred by this Order, be continued by or in relation to the transferee.

(5) So far as is necessary for the purposes of or in consequence of any of articles 3 to 10, an enactment or instrument passed or made before this Order comes into force has effect as if—

- (a) a reference to the First Secretary of State were a reference to the transferee,
- (b) a reference to the Office of the Deputy Prime Minister were a reference to the Department of the transferee, and
- (c) a reference to an officer of the First Secretary of State were a reference to an officer of the transferee.

(6) The references to which paragraph (5) applies include references that are to be construed as references to the First Secretary of State, the Office of the Deputy Prime Minister or an officer of the First Secretary of State.

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## **Consequential amendments**

- 12.** The Schedule (consequential amendments) has effect.

*Judith Simpson*  
Clerk of the Privy Council

SCHEDULE(7)

Article 12

CONSEQUENTIAL AMENDMENTS

*Greater London Council (General Powers) Act 1970 (c. lxxvi)*

1. In section 7(3) of the Greater London Council (General Powers) Act 1970 (polytechnics: preservation of superannuation rights) for “Secretary of State for the Environment” substitute “Secretary of State”.

*Greater London Council (General Powers) Act 1972 (c. xl)*

2. In section 2 of the Greater London Council (General Powers) Act 1972 (interpretation), the definition of “the Secretary of State” is repealed.

*Somerset House Act 1984 (c. 21)*

3. In section 1(1) of the Somerset House Act 1984 (leases of Somerset House) for “Secretary of State for the Environment” substitute “Secretary of State for Communities and Local Government”.

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**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order in Council is made under sections 1 and 2 of the Ministers of the Crown Act 1975.

There is currently no holder of the office of First Secretary of State, and the corporation sole created by that name by the Transfer of Functions (Transport, Local Government and the Regions) Order 2002 (S.I. 2002/2626) is accordingly vacant. Functions assigned to that office by legislation are transferred by article 4 to the Secretary of State for Communities and Local Government or by article 3, 6 or 7 to the Secretary of State.

Article 5 transfers to the Secretary of State for Transport or to the Secretary of State for Communities and Local Government functions conferred by virtue of enactments which have been amended to refer respectively to the Secretary of State for Transport or the Secretary of State for the Environment, but which have been the subject of orders transferring functions to the Secretary of State or the First Secretary of State.

Articles 8 to 10 provide for the transfer, to particular Secretaries of State, of property, rights and liabilities in connection with the transfer of functions.

Article 11 makes supplementary provision for continuity. Article 12 and the Schedule make consequential amendments.

Nothing in this Order alters the functions of the Welsh Ministers, the Scottish Ministers or the devolved authorities in Northern Ireland.

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(7)

For the effect of references to the Secretary of State for the Environment in the enactments amended by this Schedule, see the footnote to article 3.

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An impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.