

2021 No. 114

NORTHERN IRELAND DEPARTMENTS

**The Departments (Transfer of Functions) Order (Northern
Ireland) 2021**

Made - - - - - *1st April 2021*

Affirmed by resolution of the Assembly on *1st June 2021*

Coming into operation in accordance with Article 1(2)

The First Minister and deputy First Minister acting jointly, in exercise of the powers conferred by Article 8 of the Departments (Northern Ireland) Order 1999(a), make the following Order.

Citation and commencement

1.—(1) This Order may be cited as the Departments (Transfer of Functions) Order (Northern Ireland) 2021.

(2) This Order comes into operation on the day after that on which it is affirmed by resolution of the Assembly.

Interpretation

2.—(1) In this Order—

“instrument” includes any judgment, decree, order, award, deed, contract, regulation, byelaw, certificate or other document,

“the transfer date” means the date on which this Order comes into operation,

“the transferor” and “the transferee”, in relation to any functions transferred by this Order, mean respectively the department from which and the department to which the functions are transferred.

(2) Any reference in this Order to a statutory provision under or for the purposes of which a function is transferred by the Order (a “transferring provision”) includes a reference to a statutory provision passed or made before the transfer date which—

- (a) amends or extends the transferring provision, or
- (b) confers functions on the transferor for the purposes of the transferring provision.

Transfer to the Department for Communities of certain functions of the Executive Office

3. The functions which immediately before the transfer date are exercisable by the Executive Office(a) under or for the purposes of section 19 of the Employment Act (Northern Ireland) 2016(b) are transferred as from that date to the Department for Communities.

Transfer to the Department for Infrastructure of certain functions of the Department of Agriculture, Environment and Rural Affairs

4. The functions which immediately before the transfer date are exercisable by the Department of Agriculture, Environment and Rural Affairs(c) under or for the purposes of the Reservoirs Act (Northern Ireland) 2015(d) are transferred as from that date to the Department for Infrastructure.

Transfer to the Department of Justice of certain functions of the Department of Education

5. The functions which immediately before the transfer date are exercisable by the Department of Education under or for the purposes of Article 23 of the Special Educational Needs and Disability (Northern Ireland) Order 2005(e) are transferred as from that date to the Department of Justice.

References in statutory provisions, etc.

6.—(1) In the construction and for the purposes of any statutory provision or instrument passed, made or issued before the transfer date, any reference to, or which is to be construed as a reference to, the transferor is, so far as may be necessary for the purpose of the transfer of functions by this Order, to be construed as, or as including, a reference to the transferee.

(2) The transfer of functions by this Order does not affect the validity of any instrument made or issued or any other act done by, or in relation to, the transferor before the transfer date; and any such instrument or act in force immediately before that date continues in force to the same extent and subject to the same provisions as if it had been duly made, issued or done by, or in relation to, the transferor.

(3) Anything (including any legal proceedings) in the process of being done by or in relation to the transferor immediately before the transfer date may, so far as it relates to any function transferred by this Order, be continued by or in relation to the transferee.

Transfer of assets and liabilities

7. All assets and liabilities enjoyed or incurred by the transferor immediately before the transfer date in connection with any function transferred by this Order are on that date transferred to, and by virtue of this Order vest in, the transferee.

Consequential amendments

8.—(1) The Schedule contains amendments of statutory provisions in consequence of Articles 3 to 5.

(2) Nothing in the Schedule affects the generality of Article 6 or 7.

(a) The Office of the First Minister and deputy First Minister, on which the functions were conferred, was renamed the Executive Office by section 1(1) of the Departments Act (Northern Ireland) 2016. Section 1(1) came into operation on 8th May 2016.

(b) 2016 c. 15 (N.I.)

(c) The Department of Agriculture and Rural Development, on which the functions were conferred, was renamed the Department of Agriculture, Environment and Rural Affairs by section 1(2) of the Departments Act (Northern Ireland) 2016. Section 1(2) came into operation on 8th May 2016

(d) 2015 c. 8 (N.I.)

(e) S.I. 2005/1117 (N.I. 6).

Dated this 1st of April 2021

The Rt Hon Arlene Foster MLA
First Minister
Michele O'Neill MLA
deputy First Minister

SCHEDULE 1 Article 8(1)
CONSEQUENTIAL AMENDMENTS

PART 1

AMENDMENT CONSEQUENTIAL ON ARTICLE 3

Employment Act (Northern Ireland) 2016

1. For section 19(12), substitute—

“(12) For the purposes of this section, “the Department” means the Department for Communities.”.

PART 2

AMENDMENT CONSEQUENTIAL ON ARTICLE 4

Reservoirs Act (Northern Ireland) 2015

2. In section 128(1), for the definition of “the Department” substitute—

““the Department” means the Department for Infrastructure.”.

PART 3

AMENDMENTS CONSEQUENTIAL ON ARTICLE 5

The Special Educational Needs and Disability (Northern Ireland) Order 2005

3.—(1) In Article 13(1), for the definitions of “prescribed” and “regulations” substitute—

““prescribed” means, except in Article 23, prescribed by regulations made by the Department;”

(2) In Article 16(3), for “Regulations may” substitute “The Department may by regulations”.

(3) In Article 23—

(a) in paragraph (1), for “Regulations may” substitute “The Department of Justice may by regulations”,

(b) in paragraph (4), after “Department”, in the first place where it appears, insert “of Justice”,

(c) in paragraph (5), for “regulations may” substitute “the Department of Justice may by regulations”,

(d) after paragraph (9), insert—

“(10) In this Article, “prescribed” means prescribed by regulations made by the Department of Justice.”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order transfers functions as follows.

The functions under section 19 of the Employment Act (Northern Ireland) 2016 (relating to gender pay gap information) currently with the Executive Office are transferred to the Department for Communities (Article 3).

Those under the Reservoirs Act (Northern Ireland) 2015 (relating to the regulation of certain reservoirs) currently with the Department of Agriculture, Environment and Rural Affairs are transferred to the Department for Infrastructure (Article 4).

Those under Article 23 of the Special Educational Needs and Disability (Northern Ireland) Order 2005 (relating to the proceedings of the Special Educational Needs and Disability Tribunal on a claim of unlawful discrimination under Chapter 1 of Part 3 of the Order and to the making of a claim) currently with the Department of Education are transferred to the Department of Justice (Article 5).

© Crown copyright 2021

Printed in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of Her Majesty's Stationery Office being the Government Printer for Northern Ireland and the Officer appointed to print Acts of the Northern Ireland Assembly.

£4.90

www.legislation.gov.uk/nisr/2021/114

ISBN 978-0-337-60073-9



9 780337 600739