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STATUTORY INSTRUMENTS

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**2000 No. 1830**

**CONSTITUTIONAL LAW DEVOLUTION, WALES**

The National Assembly for Wales  
(Transfer of Functions) (No. 2) Order 2000

*Made* - - - - - *12th July 2000*  
*Coming into force* - - - - - *2nd October 2000*

At the Court at Buckingham Palace, the 12th day of July 2000

Present,

The Queen's Most Excellent Majesty in Council

Whereas the draft of this Order has been laid before, and approved by a resolution of, each House of Parliament in pursuance of section 22(4)(a) of the Government of Wales Act 1998(1);

Now, therefore, Her Majesty, in pursuance of section 22 of the Government of Wales Act 1998, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

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**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the National Assembly for Wales (Transfer of Functions) (No. 2) Order 2000 and shall come into force on 2nd October 2000.

(2) In this Order –

- (a) “the Act” means the Human Rights Act 1998(2);  
“the Convention rights” and “primary legislation” have the same meaning as in the Act;  
“court” has the same meaning as in section 4(5) of the Act;  
“the National Assembly” means the National Assembly for Wales;  
“subordinate legislation” has the same meaning as in the Act; and

“Wales” has the same meaning as in the Government of Wales Act 1998 as read with article 6 of the National Assembly for Wales (Transfer of Functions) Order 1999<sup>(3)</sup>

- (b) references to subordinate legislation made by the National Assembly or a Minister of the Crown shall be construed as including subordinate legislation confirmed or approved by the National Assembly or, as the case may be, a Minister of the Crown and like expressions shall be construed accordingly.

### **Human Rights Act 1998**

2.—(1) It is directed that, in respect of any proceedings to which paragraph (2) applies, the function of a Minister of the Crown under section 5(2) of the Human Rights Act (joinder of Minister etc. as a party to proceedings) shall be exercisable by the National Assembly concurrently with any Minister of the Crown by whom it is exercisable.

(2) This paragraph applies to any proceedings in which a court is considering whether to make a declaration of incompatibility within the meaning of section 4 of the Human Rights Act 1998 in respect of –

- (a) subordinate legislation made by the National Assembly; and
- (b) subordinate legislation made, in relation to Wales, by a Minister of the Crown in the exercise of a function which is exercisable by the National Assembly.

*A K Galloway*  
Clerk of the Privy Council

## **EXPLANATORY NOTE**

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

The Order, which comes into force on 2nd October 2000, is made under section 22 of the Government of Wales Act 1998. The effect of the Order is that where a court is considering making a declaration of incompatibility under section 4 of the Human Rights Act in relation to subordinate legislation made by the National Assembly for Wales, or made by a Minister of the Crown under a power that is also exercisable by the National Assembly, the National Assembly as well as the Minister of the Crown, will be entitled under section 5(2) of that Act of 1998, to be joined as a party to those court proceedings.