
EXPLANATORY NOTE

(This note is not part of the Order)

This Order varies the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) (“the 1999 Order”) and provides for certain functions under the Census Act 1920 (c.41) to be transferred to the National Assembly for Wales.

Article 2 of and the Schedule to this Order vary two entries in Schedule 1 to the 1999 Order. Firstly, the entry relating to the Environmental Protection Act 1990 (c.43) is varied so that the Assembly can exercise functions under section 156 of that Act but only in relation to Part 2 of that Act. Section 156 enables the Secretary of State to make regulations modifying certain provisions of the Act to give effect to obligations and rights under Community law and international agreements. Part 2 of the Act concerns waste disposal. Secondly, the entry relating to the Water Industry Act 1991 (c.56) is varied so that the functions of prescribing requirements relating to water fittings by reference to regulations made under section 74 of the Water Industry Act 1991, will be transferred to the National Assembly for Wales “in relation to any water or sewerage undertaker whose area is wholly or mainly in Wales (but not in relation to any licensed water suppliers)”, rather than being transferred “in relation to Wales”. This harmonizes the basis upon which those functions are transferred to the National Assembly for Wales with the basis upon which the associated regulation-making function under section 74 of the Water Industry Act 1991 is presently transferred to the National Assembly for Wales.

Article 3 transfers the regulation – making functions of the Chancellor of the Exchequer under section 3 of the Census Act 1920, so far as exercisable in relation to Wales, to the National Assembly for Wales. Those functions were transferred to the Chancellor of the Exchequer by the Transfer of Functions (Registration and Statistics) Order 1996 (S.I. 1996/273) which was made under section 1 of the Ministers of the Crown Act 1975 (c.26).

Article 4 directs that no recommendation shall be made to Her Majesty in Council to make an Order in Council under section 1 of the Census Act 1920, directing that a census be taken for Wales, or any part of Wales, (whether or not it is also recommended that a census be taken for any other part of Great Britain) unless the Assembly has been consulted about the making of that recommendation.

Article 5 prevents the transfer to the Assembly, of documentary or electronic records connected with functions included in this Order, which would otherwise take place by operation of section 23 of the Government of Wales Act 1998.