

**2007 No. 1269**

**CONSTITUTIONAL LAW**

**DEVOLUTION, WALES**

**The National Assembly for Wales (Transfer of Property, Rights  
and Liabilities) Order 2007**

*Made* - - - - - *18th April 2007*

*Laid before Parliament* *23rd April 2007*

*Coming into force in accordance with article 1(2)*

The Secretary of State, in exercise of the functions conferred upon him by sections 157 and 162(2) of, and paragraph 41 of Schedule 11 to the Government of Wales Act 2006(a), makes the following Order:

**Citation, commencement and interpretation**

**1.**—(1) This Order may be cited as The National Assembly for Wales (Transfer of Property, Rights and Liabilities) Order 2007.

(2) This Order shall come into force immediately after the end of the initial period(b).

(3) In this Order—

the “1998 Act” means the Government of Wales Act 1998(c);

the “2006 Act” means the Government of Wales Act 2006;

the “1998 Act Assembly” means the corporate body known as the National Assembly for Wales constituted by the 1998 Act;

“Assembly Members” means persons elected to the 1998 Act Assembly pursuant to the 1998 Act;

the “Assembly Office” means the land and buildings in Cardiff Bay in the County of Cardiff known as the National Assembly for Wales Office, formerly known as Crickhowell House or Ty Crucywel, and referred to in the Assembly Office Lease as “the Premises”;

the “Assembly Office Lease” means the Lease dated 10th April 2007 whereby the Assembly Office was leased to the 1998 Act Assembly by Cardiff Bay Nominee 1 Limited and Cardiff Bay Nominee 2 Limited for 25 years from 10th April 2007;

the “Assembly Parliamentary Service” means the unit of staff referred to by that name in standing orders made under the 1998 Act;

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(a) 2006 c.32.

(b) The “initial period” is defined in section 161(5) of the Government of Wales Act 2006

(c) 1998 c.38.

“House Committee functions” means the functions delegated immediately before the beginning of the initial period under section 62 of the 1998 Act to the Committee of the 1998 Act Assembly referred to in standing orders made under that Act as the House Committee and which continue to be exercisable by virtue of paragraph 24 of Schedule 11 to the 2006 Act;

the “Queensgate Car Park Licence” means the Licence dated 23rd February 2007 whereby a licence was granted to APCOA Parking (UK) Limited by the 1998 Act Assembly in relation to land in Cardiff Bay in the County of Cardiff referred to in such Licence as “the Blue Land” and “the Red Land”; and

the “Senedd” means the land and buildings in Cardiff Bay in the County of Cardiff known as the Senedd and referred to in the agreements listed at numbers 5 to 7 inclusive in the Schedule to this Order.

### **Transfer of property, rights and liabilities in respect of land and buildings in Cardiff Bay and Colwyn Bay to the Assembly Commission**

2.—(1) There shall be transferred to the Assembly Commission the property, rights and liabilities in or arising from or in connection with the agreements listed in the Schedule to this Order together with any further rights or liabilities in connection with the buildings or land to which such agreements relate, which the 1998 Act Assembly is entitled or subject to immediately before the coming into force of this Order.

(2) Paragraph (1) above has effect in relation to any property, rights or liabilities to which it applies, notwithstanding any provision of whatever nature included in any notice, caution, restriction, inhibition or any other adverse registration, which would prevent or restrict the transfer, or registration of transfer, of the property, rights, or liabilities as the case may be.

(3) To the extent that paragraph (1) relates to the Senedd or to any leases relating to the Senedd the transfer made by it is subject to paragraphs (2) and (3) of article 3.

### **National Assembly for Wales Office**

3.—(1) Subject to the other provisions of this article, there are hereby transferred to the Assembly Commission all property, rights and liabilities in or arising from or in connection with the Assembly Office, the contents of those premises and the Assembly Office Lease which the 1998 Act Assembly is entitled or subject to immediately before the coming into force of this Order.

(2) As soon as is reasonably practicable after the coming into force of this Order the Assembly Commission shall grant to the Welsh Ministers a leasehold interest for nominal consideration of part of the fifth floor and part of the second floor of the Assembly Office on terms to be agreed between them.

(3) The leasehold interest referred to in paragraph (2) shall include rights for the:

- (i) First Minister for Wales;
- (ii) Welsh Ministers appointed under section 48 of the 2006 Act;
- (iii) Deputy Welsh Ministers;
- (iv) Counsel General to the Welsh Assembly Government; and
- (v) staff of the Welsh Assembly Government,

to occupy the premises to which the lease relates, to use common parts of the Assembly Office and to have rights of access and egress to and from the Senedd over, along or through the pedestrian links between the Assembly Office and the Senedd.

(4) The lease to be entered into under paragraph (2) shall include the granting to the Welsh Ministers by the Assembly Commission of—

- (a) a first option to take an assignment of the Assembly Office Lease prior to the Assembly Commission assigning or offering an assignment of the Assembly Office Lease to any other person and prior to the Assembly Commission surrendering or offering to surrender the Assembly Office Lease to any person in whom the reversion immediately expectant

on the term of years granted by the Assembly Office Lease is vested from time to time;  
and

- (b) a right to be granted a new lease of the same premises comprised therein on expiry of the term of years granted by the lease first so granted in the event of the Assembly Commission exercising any right to request a new lease of the Assembly Office on expiry of the term of years granted by the Assembly Office Lease.

(5) The lease to be entered into under paragraph (2) shall include provision for the appointment of an arbitrator to resolve any dispute between the parties as to the terms of such lease following its granting.

(6) Except for requiring the consent of the Assembly Commission, such consent not to be unreasonably withheld, no provision may prevent the Welsh Ministers from acquiring rights for nominal consideration to use or occupy parts of the Assembly Office in addition to those which shall be subject to the lease referred to in paragraph (2).

(7) This article applies notwithstanding any provision relating to the Assembly Office or the Senedd which restricts or prohibits shared use, shared occupation, subletting or assignment of such property or any part or parts thereof or the granting of any rights relating thereto.

### **Property with mixed use**

4.—(1) This article applies where—

- (a) any property formerly vested in the 1998 Act Assembly which is transferred to the Welsh Ministers by virtue of paragraph 39 of Schedule 11 to the 2006 Act is also to be used by the Assembly Commission, for or in connection with its functions; and
- (b) the use of that property by the Assembly Commission is regulated by an agreement between the Assembly Commission and the Welsh Ministers (referred to in this article as “a dual use agreement”).

(2) The transfer of the property to the Welsh Ministers shall be subject to the rights of the Assembly Commission under the dual use agreement.

(3) This article applies notwithstanding any provision relating to any such property which restricts or prohibits shared use, shared occupation, letting, subletting or assignment of such property or any part or parts thereof or the granting of any rights relating thereto.

### **The seal of the National Assembly for Wales**

5. The seal of the 1998 Act Assembly is transferred to the Assembly Commission.

### **Transfer of other property rights and liabilities**

6.—(1) This article applies to any property, rights or liabilities to which the 1998 Act Assembly is entitled or subject, and in respect of which no other express provision has been made elsewhere in this Order.

(2) With the exception of the Queensgate Car Park Licence, all such property, rights and liabilities relating to the House Committee functions are transferred to and vest in the Assembly Commission.

### **Merlin Services Agreement**

7.—(1) The property, rights and liabilities under the Merlin Services Agreement shall be transferred upon terms to be agreed between the 1998 Act Assembly and the supplier.

(2) Paragraphs (3), (4) and (5) below apply in the event that the agreement referred to in paragraph (1) is not reached by the end of the initial period.

(3) All services that were provided immediately before the end of the relevant day:

- (a) to Assembly Members;

- (b) for the exercise of House Committee functions; or
- (c) to the Assembly Parliamentary Service,

shall be provided to the Assembly Commission, and all other services shall be provided to the Welsh Assembly Government, on the same terms as if the constitutional change to the 1998 Act Assembly had not occurred.

(4) The property, rights and liabilities under the Merlin Services Agreement shall transfer to and vest in the Welsh Ministers and the Assembly Commission each to the extent necessary for the provision of the services referred to in paragraph (3).

(5) In so far as the Merlin Services Agreement is modified by this article, the modifications shall to the extent necessary be incorporated into the text of that agreement by the Welsh Ministers following consultation with, and having regard to the observations of, the supplier.

(6) Paragraphs (7) and (8) apply whether or not the agreement referred to in paragraph (1) is reached.

(7) All assets owned by the 1998 Act Assembly that were required immediately before the end of the relevant day to enable services to be provided exclusively:

- (a) to Assembly Members;
- (b) for the exercise of House Committee functions; or
- (c) to the Assembly Parliamentary Service,

are transferred to and vest in the Assembly Commission and all other assets owned by the 1998 Act Assembly are transferred to and vest in the Welsh Ministers.

(8) Neither the Welsh Ministers, the Assembly Commission nor (to the extent relevant) the supplier shall incur any fee, penalty or liability as a result of changes to the Merlin Services Agreement or to licences provided under that agreement, necessary as a result of the constitutional change to the 1998 Act Assembly.

(9) In this article—

- (a) the Merlin Services Agreement means the agreement dated 6th January 2004 between the 1998 Act Assembly and Siemens Business Services Ltd;
- (b) “assets”, “services” and “the supplier” have the meaning given to them under the Merlin Services Agreement;
- (c) references to assets required to enable services to be provided to Assembly Members does not include assets used by or required to enable services to be provided to:
  - (i) any Assembly Member in his capacity as Assembly First Secretary appointed under section 53 of the 1998 Act;
  - (ii) any Assembly Member in his capacity as an Assembly Secretary appointed under that section;
  - (iii) any Assembly Member in his capacity as a Deputy Minister referred to in the code made by the Assembly First Secretary under paragraph 2.7 of the standing orders made under the 1998 Act<sup>(a)</sup>; or
  - (iv) any member of staff of the 1998 Act Assembly working to or for the Assembly First Secretary, an Assembly Secretary or a Deputy Minister; and
- (d) references to the “relevant day” mean the day before the day of the poll at the 2007 election<sup>(b)</sup>.

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(a) The standing orders are published on the website of the 1998 Act Assembly.

(b) The expression “the 2007 election” is defined in section 161(1) of the 2006 Act as the ordinary election under section 3 of the 1998 Act. In accordance with section 3 of the 1998 Act the election is due to take place on 3rd May 2007.

## **Pension Services**

8.—(1) This article relates to the contract for pension services administration service referred to in a letter dated 9th September 2004 from the 1998 Act Assembly to Paymaster (1836) Ltd (“the contract”).

(2) All services that were provided under the contract immediately before the coming into force of this Order to the Assembly Parliamentary Service shall be provided to the Assembly Commission, and all other services provided shall be provided to the Welsh Assembly Government, on the same terms as if the constitutional change to the 1998 Act Assembly had not occurred.

(3) The property, rights and liabilities under the contract shall transfer to and vest in the Welsh Ministers and the Assembly Commission each to the extent necessary for the provision of the services referred to in paragraph (2).

(4) In so far as the contract is modified by this article, the modifications shall to the extent necessary be incorporated in to the text of the contract by the Welsh Ministers following consultation with, and having regard to the observations of, Paymaster (1836) Ltd.

## **Records**

9.—(1) Subject to paragraphs (3) to (5) the Assembly Commission shall have a—

- (a) right of possession of;
  - (b) right of access to; and
  - (c) right to use and deal with,
- any records to which this paragraph applies.

(2) Paragraph (1) applies to records that:

- (a) are held by the Assembly Parliamentary Service immediately before this Order comes into force; or
- (b) after that date are, subject to paragraph (5), provided by the Welsh Assembly Government to the Assembly Commission and:
  - (i) were in existence immediately before this Order comes into force; and
  - (ii) relate to or are connected with the property, rights, and liabilities transferred to the Assembly Commission under this Order.

(3) The right of possession of and access to records referred to in paragraph (1) is subject to the right of the Secretary of State for Wales to have access to records transferred to the 1998 Act Assembly by the National Assembly for Wales (Transfer of Records) Order 2004(a).

(4) Nothing in this article affects the rights of the Welsh Ministers to possession of, access to or to use and deal with the records to which this article applies.

(5) The Welsh Ministers may provide to the Assembly Commission any record to which paragraph (2)(b) applies on such conditions and subject to such restrictions, including the exclusion of one or more of the rights referred to in paragraph (1), as the Welsh Ministers consider appropriate.

## **Determination of disputes**

10.—(1) Any dispute as to the terms of any dual use agreement referred to in article 4(1)(b) shall be determined by the Welsh Ministers.

(2) If the Assembly Commission and the Welsh Ministers (“the parties”) fail to agree the terms of the lease to be entered into under article 3(2) of this Order by 31st December 2007, the terms of the lease shall be determined by the Secretary of State or by an arbitrator appointed by the Secretary of State for such purpose.

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(a) S.I. 2004/3137.

## **Transitional and saving provisions**

**11.**—(1) The transfer by this Order of any property, rights or liabilities of the 1998 Act Assembly to the Assembly Commission does not affect the validity of anything done (or having effect as if done) by or in relation to the 1998 Act Assembly before the date on which the transfer takes effect.

(2) Anything (including legal proceedings) which at the time the transfer takes effect, is in the process of being done by the 1998 Act Assembly, so far as it relates to any property, rights or liabilities transferred by this Order to the Assembly Commission, shall have effect as if done by the Assembly Commission and may be continued by or in relation to the Assembly Commission.

(3) Anything done (or having effect as if done) by or in relation to the 1998 Act Assembly in connection with any property, rights or liabilities transferred to the Assembly Commission by this Order will, if in force at the time when the transfer takes effect, have effect as if done by or in relation to the Assembly Commission in so far as that is required for continuing its effect after that time.

(4) Subject to any contrary provision in this Order, all contracts, deeds, agreements and other instruments subsisting in favour of, or against, and all notices in force which were given (or having effect as if they had been given) by, or to, the 1998 Act Assembly in connection with any property, rights or liabilities transferred by this Order to the Assembly Commission shall be of full force and effect in favour of, or against, the Assembly Commission.

(5) Subject to any contrary provision in this Order, the Assembly Commission shall be substituted for the 1998 Act Assembly in any contracts, deeds, agreements and other instruments which relate to any property, rights or liabilities transferred by this Order to the Assembly Commission, and which are made or commenced before the coming into force of this Order.

18th April 2007

*Nick Ainger*  
Parliamentary Under Secretary of State for Wales  
Wales Office

## SCHEDULE

1. Agreement entered into on 18th September 1998 by the Secretary of State with Grosvenor Waterside Investments Limited, Associated British Ports and Capital Waterside Management (No. 1) Limited, concerning the grant or variation of leases over certain properties in Cardiff Bay in the County of Cardiff, including the Senedd and the Pierhead Building and the Assembly Office.

2. Lease dated 29th July 2002 and registered at the Land Registry, Wales Office under title number CYM86379 whereby the Pierhead Building was leased to the 1998 Act Assembly by Associated British Ports for 150 years from 29th September 1998.

3. Lease dated 10th February 2004 and registered at the Land Registry, Wales Office under title number CYM176864 whereby the Colwyn Bay Visitor Centre was leased to the 1998 Act Assembly by Work Panel Limited for 10 years from 1st October 2003.

4. Landscape Area Licence dated 10th April 2007 whereby a Licence was granted to the 1998 Act Assembly by Cardiff Bay Nominee 1 Limited and Cardiff Bay Nominee 2 Limited in relation to land in Cardiff Bay in the County of Cardiff referred to in such Landscape Area Licence as “the Licence Area”.

5. Lease dated 1st October 1998 and registered at the Land Registry, Wales Office under title number WA890692 whereby land in Cardiff Bay in the County of Cardiff was leased to the Secretary of State by Grosvenor Waterside Investments Limited for 150 years from 29th September 1998 as varied by a Deed of Variation dated 17th January 2001 made between CBP (Jersey No. 1) Limited and CBP (Jersey No. 2) Limited, the 1998 Act Assembly and Capital Waterside Management (No. 1) Limited.

6. Lease dated 17th January 2001 and registered at the Land Registry, Wales Office under title number CYM11393 whereby land in Cardiff Bay in the County of Cardiff was leased to the 1998 Act Assembly by Grosvenor Waterside Investments Limited for 150 years from 29th September 1998.

7. Lease dated 30th December 2002 and registered at the Land Registry, Wales Office under title number CYM11393 whereby land in Cardiff Bay in the County of Cardiff was leased to the 1998 Act Assembly by Grosvenor Waterside Investments Limited for 150 years from 29th September 1998.

## EXPLANATORY NOTE

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

The Government of Wales Act 1998 (c.38), which provided for devolution of power to Wales, established a body corporate known as the National Assembly for Wales. Unlike the devolution arrangements in Scotland and Northern Ireland, the 1998 Act did not provide for a separation of the legislature from the executive. Although its statutory functions are in law the responsibility of the Assembly as the corporate body, in practice however most of the Assembly's powers (excluding those of a predominantly legislative character) are exercised on its behalf by Assembly Ministers (referred to in the 1998 Act as "Assembly Secretaries") under delegation arrangements approved by the Assembly in plenary session. The Assembly holds Ministers to account for exercise of these functions. This system was reflected by the titles "Welsh Assembly Government" to describe what was in practice the executive, and "Assembly Parliamentary Service" describing the legislature.

The Government of Wales Act 2006 (c.32) establishes the Welsh Assembly Government in a legal form which is separate, but accountable to a newly formed National Assembly for Wales. In doing so it establishes as legal entities a First Minister (appointed by Her Majesty), Welsh Ministers and Counsel General capable of exercising statutory functions in their own right. The National Assembly for Wales in its new form will, like other legislatures or parliaments, not be a corporate body, and in consequence a new legal entity known as the National Assembly for Wales Commission ("Assembly Commission") will be established to enable administrative and legal arrangements to be made for employing staff, holding property, purchasing services, and more generally entering into contracts for the benefit of the Assembly.

Paragraph 39 of Schedule 11 to the 2006 Act provides that in the absence of any provision to the contrary property, rights and liabilities of the existing or "1998 Act" National Assembly for Wales will pass to the Welsh Ministers when the new arrangements come into force. Paragraph 41 of Schedule 11 enables the Secretary of State, by order, to make alternative provision. This Order makes such alternative provision by transferring certain property, rights and liabilities to the Assembly Commission.

**Article 2** transfers interest in land to the Assembly Commission in respect of the Senedd and the Pierhead Building in Cardiff Bay and the Colwyn Bay Visitor Centre.

**Article 3** makes provision for the transfer of the National Assembly for Wales Office in Cardiff Bay to the Assembly Commission subject to a lease of part of the building to the Welsh Ministers.

**Article 4** makes provision for the shared use by Assembly Commission of buildings transferred to the Welsh Ministers and which have been predominately used and occupied by the former Welsh Assembly Government.

**Article 5** transfers the seal of the "1998 Act" Assembly to the Assembly Commission.

**Article 6** makes a general provision for the transfer of property, rights and liabilities that relate to the activities of the Assembly Parliamentary Service to the Assembly Commission.

**Article 7** makes specific provision relating to the Assembly's ICT Services contract for the continuation of service to the new entities.

**Article 8** makes specific provision in relation to the Assembly's pension services administration contract providing for the continuation of service to the new entities.

**Article 9** confers rights upon the Assembly Commission regarding documents which relate to the property, rights and liabilities transferred to the Assembly Commission by this Order.

**Article 10** provides for disputes to be resolved in most instances by the Secretary of State.

**Article 11** makes transitional and saving provisions.



Site plans showing the land and buildings which are the subject of this Order can be inspected during office hours at the library of the Welsh Assembly Government, Cathays Park, Cardiff, CF10 3NQ.

Any criminal liability of the Assembly Commission in connection with the property etc transferred to it by this Order is covered in article 2(3) of the Government of Wales Act 2006 (Transitional Provisions) Order 2007 (S.I. 2007/1270).

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**CONSTITUTIONAL LAW**

**DEVOLUTION, WALES**

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