

**EXPLANATORY MEMORANDUM TO**  
**THE SECRETARY OF STATE FOR BUSINESS, INNOVATION AND SKILLS ORDER**  
**2009**

**2009 No. 2748**

1. This explanatory memorandum has been prepared by the Department for Business, Innovation and Skills and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 This Order makes provision with respect to the Secretary of State for Business, Innovation and Skills in consequence of the departmental machinery of government changes announced by the Prime Minister on 5 June 2009.

**3. Matters of special interest to the Joint Committee on Statutory Instruments or the Select Committee on Statutory Instruments**

3.1 None

**4. Legislative Context**

4.1 Where functions are vested in the Secretary of State at large, they can be transferred by administrative means, in this case by the Prime Minister's announcement of 5 June 2009. However, some functions are assigned by legislation to a named Minister and so they must be transferred by legislation (in this case using the powers given by sections 1 and 2 of the Ministers of the Crown Act 1975). Those powers also enable appropriate supplementary and consequential provision to be made, and allow the incorporation of a Secretary of State as a distinct legal person or "corporation sole". Thus the Order completes the process of establishing the Department of Business, Innovation and Skills which was created on 5 June 2009.

**5. Territorial Extent and Application**

5.1 This instrument applies to all of the United Kingdom.

**6. European Convention on Human Rights**

Ian Lucas MP, Minister for Business and Regulatory Reform, has made the following statement regarding Human Rights:

In my view the provisions of the Secretary of State for Business, Innovation and Skills Order 2009 are compatible with the Convention rights.

## **7. Policy background**

- What is being done and why

7.1 On 5 June 2009, the Prime Minister announced that the Government had merged the Department for Business, Enterprise and Regulatory Reform and the Department for Innovation, Universities and Skills to create a new department called the Department for Business, Innovation and Skills.

7.2 The functions for all policy areas of the Secretary of State for Business, Enterprise and Regulatory Reform and the Secretary of State for Innovation, Universities and Skills were given to a new office of the Secretary of State for Business, Innovation and Skills.

7.3 Where these functions and responsibilities are those of the Secretary of State at large, they have been entrusted to the Secretary of State for Business, Innovation and Skills administratively by the Prime Minister.

7.4 The Order makes consequential amendments to legislation to ensure that references to the former Secretaries of State for Business, Enterprise and Regulatory Reform and Innovation, Universities and Skills, or their Departments, are changed to reflect the machinery of government changes.

7.5 This Order incorporates the new Secretary of State as a corporation sole. This enables ownership of property and the use of a corporate seal.

7.6 Property rights and liabilities are transferred to the new Secretary of State where they are connected to the functions transferred or entrusted.

- Consolidation

7.7 The Department does not intend to consolidate the legislation which is amended by this Order.

## **8. Consultation outcome**

8.1 No impact on business or the voluntary sector is foreseen as a result of this Order, therefore there has not been a public consultation on the order. Interested Government Departments have been consulted.

## **9. Guidance**

9.1 No guidance has been prepared.

## **10. Impact**

10.1 The impact on business, charities or voluntary bodies is foreseen to be nil.

10.2 The impact on the public sector is likely to be negligible.

10.3 An Impact Assessment has not been prepared for this instrument as no impact on the private or voluntary sectors is foreseen.

**11. Regulating small business**

11.1 The legislation does not apply to small business.

**12. Monitoring & review**

12.1 Considering the nature of this Order, there is no success criteria or intention to review the outcome.

**13. Contact**

13. Peter Stephens at the Department for Business, Innovation and Skills (tel 0207 215 3813 or email: [peter.stephens@bis.gov.uk](mailto:peter.stephens@bis.gov.uk)) can answer any queries regarding the instrument.