
STATUTORY INSTRUMENTS

2018 No. 378

The Secretaries of State for Health and Social Care and
for Housing, Communities and Local Government and
Transfer of Functions (Commonhold Land) Order 2018

Citation and commencement

1.—(1) This Order may be cited as the Secretaries of State for Health and Social Care and for Housing, Communities and Local Government and Transfer of Functions (Commonhold Land) Order 2018.

(2) This Order comes into force on 11th April 2018.

Interpretation

2. In this Order—

“CLG function” means any function so far as—

- (a) it is transferred by article 8, or
- (b) it was entrusted to the Secretary of State for Communities and Local Government immediately before 8th January 2018 and has before the making of this Order been entrusted to the Secretary of State for Housing, Communities and Local Government;

“health function” means any function so far as—

- (a) it is transferred by article 4, or
- (b) it was entrusted to the Secretary of State for Health immediately before 8th January 2018 and has before the making of this Order been entrusted to the Secretary of State for Health and Social Care;

“instrument” includes Royal Charters, Royal Warrants, Orders in Council, Letters Patent, judgments, decrees, orders, rules, regulations, schemes, bye-laws, awards, licences, authorisations, consents, approvals, contracts and other agreements, memoranda and articles of association, certificates, deeds and other documents.

Incorporation of the Secretary of State for Health and Social Care

3.—(1) The person who at the coming into force of this Order is the Secretary of State for Health and Social Care and any successor to that person is by that name a corporation sole.

(2) The corporate seal of the Secretary of State for Health and Social Care—

- (a) is to be authenticated by the signature of a Secretary of State or a person authorised by a Secretary of State to act in that behalf, and
- (b) is to be officially and judicially noted.

(3) Every document purporting to be an instrument made or issued by the Secretary of State for Health and Social Care and to be—

- (a) sealed with the corporate seal of that Secretary of State authenticated in the manner provided for by paragraph (2), or
- (b) signed or executed by a person authorised by a Secretary of State to act in that behalf,

is to be received in evidence and to be deemed to be so made or issued without further proof, unless the contrary is shown.

(4) A certificate signed by the Secretary of State for Health and Social Care that an instrument purporting to be made or issued by—

- (a) the Secretary of State for Health and Social Care, or
- (b) the Secretary of State for Health,

was so made or issued is conclusive evidence of that fact.

(5) The Documentary Evidence Act 1868(1) applies in relation to the Secretary of State for Health and Social Care—

- (a) as if references to regulations and orders included references to any document, and
- (b) as if the officers mentioned in column 2 of the Schedule included any officer authorised to act on behalf of the Secretary of State.

Transfer of functions etc to the Secretary of State for Health and Social Care

4. The functions of the Secretary of State for Health are transferred to the Secretary of State for Health and Social Care.

5. There are transferred to the Secretary of State for Health and Social Care all property, rights and liabilities to which the Secretary of State for Health is entitled or subject at the coming into force of this Order.

Secretary of State for Health and Social Care: supplementary

6.—(1) Anything (including legal proceedings) which, at the coming into force of this Order, is in the process of being done by or in relation to the Secretary of State for Health may be continued by or in relation to the Secretary of State for Health and Social Care.

(2) Anything done (or having effect as if done) by or in relation to the Secretary of State for Health has effect, so far as necessary for continuing its effect after the coming into force of this Order, as if done by or in relation to the Secretary of State for Health and Social Care.

(3) Any enactment or instrument passed or made before the coming into force of this Order has effect, so far as is necessary for the purposes of or in consequence of—

- (a) the transfer or entrusting to the Secretary of State for Health and Social Care of a health function, or
- (b) the transfer of anything by article 5,

as if references to (and references which are to be read as references to) the Secretary of State for Health were or included references to the Secretary of State for Health and Social Care.

(4) Documents or forms printed for use in connection with a health function may be used in connection with that function even though they contain (or are to be read as containing) references to the Secretary of State for Health; and for the purposes of the use of any such documents or forms after the coming into force of this Order, those references are to be read as references to the Secretary of State for Health and Social Care.

(5) In paragraphs (1) to (4), references to a Secretary of State include references to the department or an officer of that Secretary of State.

Incorporation of the Secretary of State for Housing, Communities and Local Government

7.—(1) The person who at the coming into force of this Order is the Secretary of State for Housing, Communities and Local Government and any successor to that person is by that name a corporation sole.

(2) The corporate seal of the Secretary of State for Housing, Communities and Local Government—

- (a) is to be authenticated by the signature of a Secretary of State or a person authorised by a Secretary of State to act in that behalf, and
- (b) is to be officially and judicially noted.

(3) Every document purporting to be an instrument made or issued by the Secretary of State for Housing, Communities and Local Government and to be—

- (a) sealed with the corporate seal of that Secretary of State authenticated in the manner provided for by paragraph (2), or
- (b) signed or executed by a person authorised by a Secretary of State to act in that behalf,

is to be received in evidence and to be deemed to be so made or issued without further proof, unless the contrary is shown.

(4) A certificate signed by the Secretary of State for Housing, Communities and Local Government that an instrument purporting to be made or issued by—

- (a) the Secretary of State for Housing, Communities and Local Government,
- (b) the Secretary of State for Communities and Local Government,
- (c) the First Secretary of State,
- (d) the Secretary of State for Transport, Local Government and the Regions,
- (e) the Secretary of State for Environment, Transport and the Regions, or
- (f) the Secretary of State for the Environment,

was so made or issued is conclusive evidence of that fact.

(5) The Documentary Evidence Act 1868 applies in relation to the Secretary of State for Housing, Communities and Local Government—

- (a) as if references to regulations and orders included references to any document, and
- (b) as if the officers mentioned in column 2 of the Schedule included any officer authorised to act on behalf of the Secretary of State.

Transfer of functions etc to the Secretary of State for Housing, Communities and Local Government

8. The functions of the Secretary of State for Communities and Local Government are transferred to the Secretary of State for Housing, Communities and Local Government.

9. There are transferred to the Secretary of State for Housing, Communities and Local Government all property, rights and liabilities to which the Secretary of State for Communities and Local Government is entitled or subject at the coming into force of this Order.

Secretary of State for Housing, Communities and Local Government: supplementary

10.—(1) Anything (including legal proceedings) which, at the coming into force of this Order, is in the process of being done by or in relation to the Secretary of State for Communities and Local Government may be continued by or in relation to the Secretary of State for Housing, Communities and Local Government.

(2) Anything done (or having effect as if done) by or in relation to the Secretary of State for Communities and Local Government has effect, so far as necessary for continuing its effect after the coming into force of this Order, as if done by or in relation to the Secretary of State for Housing, Communities and Local Government.

(3) Any enactment or instrument passed or made before the coming into force of this Order has effect, so far as is necessary for the purposes of or in consequence of—

- (a) the transfer or entrusting to the Secretary of State for Housing, Communities and Local Government of a CLG function, or
- (b) the transfer of anything by article 9,

as if references to (and references which are to be read as references to) the Secretary of State for Communities and Local Government were or included references to the Secretary of State for Housing, Communities and Local Government.

(4) Documents or forms printed for use in connection with a CLG function may be used in connection with that function even though they contain (or are to be read as containing) references to the Secretary of State for Communities and Local Government; and for the purposes of the use of any such documents or forms after the coming into force of this Order, those references are to be read as references to the Secretary of State for Housing, Communities and Local Government.

(5) In paragraphs (1) to (4), references to a Secretary of State include references to the department or an officer of that Secretary of State.

Transfer of functions etc from the Lord Chancellor to the Secretary of State

11. The functions of the Lord Chancellor under Part 1 of the Commonhold and Leasehold Reform Act 2002(2) (commonhold land) are transferred to the Secretary of State.

12. There are transferred to the Secretary of State for Housing, Communities and Local Government all property, rights and liabilities to which the Lord Chancellor is entitled or subject at the coming into force of this Order in connection with a function transferred by article 11.

Articles 11 and 12: supplementary

13.—(1) This article applies to—

- (a) a function transferred to the Secretary of State by article 11 (“a former LC function”), and
- (b) anything transferred by article 12.

(2) Anything (including legal proceedings) which, at the coming into force of this Order, is in the process of being done by or in relation to the Lord Chancellor may, so far as it relates to anything to which this article applies, be continued by or in relation to the Secretary of State.

(3) Anything done (or having effect as if done) by or in relation to the Lord Chancellor in connection with anything to which this article applies has effect, so far as necessary for continuing its effect after the coming into force of this Order, as if done by or in relation to the Secretary of State.

(4) Any enactment or instrument passed or made before the coming into force of this Order has effect, so far as is necessary for the purposes of or in consequence of anything to which this article

(2) 2002 c. 15

applies, as if references to (and references which are to be read as references to) the Lord Chancellor were or included references to the Secretary of State.

(5) Documents or forms printed for use in connection with a former LC function may be used in connection with that function even though they contain (or are to be read as containing) references to the Lord Chancellor; and for the purposes of the use of any such documents or forms after the coming into force of this Order, those references are to be read as references to the Secretary of State.

(6) In paragraphs (2) to (5)—

- (a) references to the Lord Chancellor are to be read as including references to the department or an officer of the Lord Chancellor, and
- (b) references to the Secretary of State are to be read as including references to the department or an officer of the Secretary of State accordingly.

Validity of things done before coming into force of Order

14.—(1) This Order does not affect the validity of anything done (or having effect as if done) by or in relation to the Secretary of State for Health, the Secretary of State for Communities and Local Government or the Lord Chancellor before the coming into force of this Order.

(2) In paragraph (1) the reference to a Secretary of State or the Lord Chancellor includes a reference to the department or an officer of that Secretary of State or of the Lord Chancellor (as the case may be).

Consequential amendments

15. The Schedule has effect.

Richard Tilbrook
Clerk of the Privy Council