
STATUTORY INSTRUMENTS

2021 No. 1265

**The Transfer of Functions (Secretary of State for
Levelling Up, Housing and Communities) Order 2021**

Citation and commencement

1.—(1) This Order may be cited as the Transfer of Functions (Secretary of State for Levelling Up, Housing and Communities) Order 2021.

(2) This Order comes into force on 8th December 2021.

Interpretation

2. In this Order “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 Levelling Up, Housing and Communities

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

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

- (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 noticed.

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

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

(g) the Secretary of State for the Environment,
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 Levelling Up, Housing and Communities—

- (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 of Secretary of State for Housing, Communities and Local Government

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

Transfer of property, rights and liabilities of Secretary of State for Housing, Communities and Local Government

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

Supplementary provision in connection with articles 4 and 5

6.—(1) In this article “MHCLG 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 Housing, Communities and Local Government immediately before 20th September 2021 and has before the making of this Order been entrusted to the Secretary of State for Levelling Up, Housing and Communities.

(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 Secretary of State for Housing, Communities and Local Government may be continued by or in relation to the Secretary of State for Levelling Up, Housing and Communities.

(3) Anything done (or having effect as if done) by or in relation to the Secretary of State for Housing, Communities and Local Government has effect, so far as is 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 Levelling Up, Housing and Communities.

(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—

- (a) the transfer or entrusting to the Secretary of State for Levelling Up, Housing and Communities of any MHCLG 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 Housing, Communities and Local Government were or included references to the Secretary of State for Levelling Up, Housing and Communities.

(5) Documents or forms printed for use in connection with an MHCLG 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 Housing, Communities and Local Government.

(6) 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 Levelling Up, Housing and Communities.

(7) In paragraphs (2) to (6) references to a Secretary of State include references to the department or an officer of that Secretary of State.

Transfer of functions of Minister for the Cabinet Office

7.—(1) The functions of the Minister for the Cabinet Office under section 2(2)(b) of the Political Parties, Elections and Referendums Act 2000(2)—

- (a) are transferred to the Secretary of State for Levelling Up, Housing and Communities,
- (b) are to cease to be exercisable concurrently with any Minister of the Crown in the Cabinet Office with responsibilities in relation to the constitution, and
- (c) are instead to be exercisable concurrently with any Minister of the Crown in the Department for Levelling Up, Housing and Communities with responsibilities in relation to the constitution.

(2) The functions of the Minister for the Cabinet Office under—

- (a) the Representation of the People (England and Wales) Regulations 2001(3), and
- (b) the Representation of the People (Scotland) Regulations 2001(4),

other than the functions mentioned in paragraph (3), are transferred to the Secretary of State.

(3) The functions of the Minister for the Cabinet Office under—

- (a) regulations 29ZA, 29ZB, 32ZBB and 32ZBC of the Representation of the People (England and Wales) Regulations 2001(5), and
- (b) regulations 29ZA, 29ZB, 32ZBB and 32ZBC of the Representation of the People (Scotland) Regulations 2001(6),

are transferred to the Secretary of State for Levelling Up, Housing and Communities.

(2) 2000 c. 41. Section 2(2)(b) was amended by S.I. 2001/3500, Schedule 2, substituted by S.I. 2002/2626, Schedule 2 and amended by S.I. 2010/1837, Schedule, S.I. 2015/1376, Schedule 2 and S.I. 2016/997, Schedule 2. By article 2 of S.I. 2021/310 the Minister for the Cabinet Office's functions under section 2(2)(b) were made exercisable concurrently with any Minister of the Crown in the Cabinet Office with responsibilities in relation to the constitution.

(3) S.I. 2001/341 as amended by S.I. 2006/2910, S.I. 2013/3198, S.I. 2015/467, S.I. 2015/1971, S.I. 2016/997, S.I. 2018/272, S.I. 2018/312, S.I. 2018/644, the Data Protection Act 2018 (c. 12), S.I. 2019/1451, S.I. 2020/50 and the Senedd and Elections (Wales) Act 2020 (anaw 1); there are other amending instruments but none is relevant. The functions that are to be transferred to the Secretary of State were transferred to the Minister for the Cabinet Office by article 7(c)(i) of S.I. 2016/997.

(4) S.I. 2001/497, as amended by S.I. 2007/925, S.I. 2013/3206, S.I. 2015/450, S.I. 2015/1966, the Scottish Elections (Reduction of Voting Age) Act 2015 (asp 7), S.I. 2016/997, S.I. 2017/602, S.I. 2017/604, S.S.I. 2018/89, S.I. 2018/427, the Data Protection Act 2018 (c. 12), S.I. 2019/1451, S.S.I. 2020/180 and S.I. 2020/113; there are other amending instruments but none is relevant. The functions that are to be transferred to the Secretary of State were transferred to the Minister for the Cabinet Office by article 7(c)(ii) of S.I. 2016/997.

(5) Regulation 29ZA was inserted by S.I. 2013/3198, regulation 14(1) and amended by S.I. 2015/467, regulation 4, S.I. 2015/1971, regulation 5, S.I. 2016/997, Schedule 2 and the Senedd and Elections (Wales) Act 2020 (anaw 1), section 16(6). Regulation 29ZB was inserted by S.I. 2013/3198, regulation 14(1) and amended by S.I. 2016/997, Schedule 2. The functions under regulations 29ZA and 29ZB that are to be transferred to the Secretary of State were transferred to the Minister for the Cabinet Office by article 7(c)(i) of S.I. 2016/997. Regulation 32ZBB was inserted by S.I. 2019/1451, regulation 11 and amended by S.I. 2020/50, regulation 13. Regulation 32ZBC was inserted by S.I. 2019/1451, regulation 11 and amended by S.I. 2020/50, regulation 14.

(6) Regulation 29ZA was inserted by S.I. 2013/3206, regulation 14(1) and amended by S.I. 2015/450, regulation 4, S.I. 2015/1966, regulation 5, the Scottish Elections (Reduction of Voting Age) Act 2015 (asp 7), section 5(5) and S.I. 2016/997, Schedule 2. Regulation 29ZB was inserted by S.I. 2013/3206, regulation 14(1) and amended by S.I. 2016/997, Schedule 2. The functions under regulations 29ZA and 29ZB that are to be transferred to the Secretary of State were transferred to the Minister for the Cabinet Office by article 7(c)(ii) of S.I. 2016/997. Regulation 32ZBB was inserted by S.I. 2019/1451, regulation 18 and amended by S.S.I. 2020/113, regulation 8. Regulation 32ZBC was inserted by S.I. 2019/1451, regulation 18 and amended by S.S.I. 2020/113, regulation 9.

Transfer of property, rights and liabilities in connection with article 7(2) and (3)

8. There are transferred to the Secretary of State for Levelling Up, Housing and Communities all property, rights and liabilities to which the Minister for the Cabinet Office is entitled or subject at the coming into force of this Order in connection with a function transferred by article 7(2) or (3).

Functions of Secretary of State to cease to be exercisable concurrently with Minister for the Cabinet Office

9. The functions of the Secretary of State under—

- (a) an Act, or a provision of an Act or instrument, listed in Schedule 1, or
- (b) an instrument having effect under any such Act or a provision of such an Act,

which are exercisable concurrently with the Minister for the Cabinet Office are to cease to be exercisable concurrently with the Minister for the Cabinet Office and are instead to be exercisable only by the Secretary of State⁽⁷⁾.

Transfer of property, rights and liabilities in connection with article 9

10. There are transferred to the Secretary of State for Levelling Up, Housing and Communities all property, rights and liabilities to which the Minister for the Cabinet Office is entitled or subject at the coming into force of this Order in connection with a function which is directed by article 9 to be exercisable only by the Secretary of State.

Supplementary provision in connection with articles 7 to 10

11.—(1) This article applies to—

- (a) a function that is transferred by article 7(2) (“an article 7(2) function”),
- (b) a function that is transferred by article 7(3) (“an article 7(3) function”),
- (c) anything that is transferred by article 8,
- (d) a function that, by virtue of article 9, ceases to be exercisable concurrently by the Minister for the Cabinet office (“an article 9 function”), and
- (e) anything that is transferred by article 10.

(2) In this article “the transferee” means—

- (a) in relation to an article 7(2) function or an article 9 function, the Secretary of State, and
- (b) in relation to an article 7(3) function or anything transferred by article 8 or 10, the Secretary of State for Levelling Up, Housing and Communities.

(3) 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 Minister for the Cabinet Office may, so far as it relates to anything to which this article applies, be continued by or in relation to the transferee.

(4) Anything done (or having effect as if done) by or in relation to the Minister for the Cabinet Office in connection with anything to which this article applies has effect, so far as is necessary for continuing its effect after the coming into force of this Order, as if done by or in relation to the transferee.

(5) 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 article 7(2) or 9, as if references

(7) The functions that are to be exercisable by the Secretary of State alone include functions which were made exercisable concurrently by the Secretary of State and the Minister for the Cabinet Office by [S.I. 2016/997](#), article 3 and [S.I. 2018/780](#), article 3.

to (and references which are to be read as references to) the Minister for the Cabinet Office were or included references to the Secretary of State.

(6) 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 article 7(3), 8 or 10, as if references to (and references which are to be read as references to) the Minister for the Cabinet Office were or included references to the Secretary of State for Levelling Up, Housing and Communities.

(7) Documents or forms printed for use in connection with an article 7(2) function, an article 7(3) function or an article 9 function may be used in connection with the exercise of that function by the transferee even though they contain, or are to be read as containing, references to the Minister for the Cabinet Office.

(8) For the purposes of the use of any such documents or forms in connection with the exercise of that function by the transferee after the coming into force of this Order, those references are to be read as references to the transferee.

(9) In paragraphs (3) to (8)—

- (a) references to the Minister for the Cabinet Office include references to the Cabinet Office or an officer of that office, and
- (b) references to a Secretary of State include references to the department or an officer of that Secretary of State accordingly.

Supplementary: validity of things done before coming into force of order

12.—(1) This Order does not affect the validity of anything done (or having effect as if done) by or in relation to—

- (a) the Secretary of State for Housing, Communities and Local Government, or
- (b) the Minister for the Cabinet Office,

before the coming into force of this Order.

(2) In paragraph (1) —

- (a) the reference to the Secretary of State for Housing, Communities and Local Government includes a reference to the department or an officer of that Secretary of State, and
- (b) the reference to the Minister for the Cabinet Office includes a reference to the Cabinet Office or an officer of that office.

Consequential amendments

13. Schedule 2 has effect.

Ceri King
Deputy Clerk to the Privy Council