
STATUTORY INSTRUMENTS

1999 No. 679

MINISTERS OF THE CROWN

The Transfer of Functions (Lord Advocate and Advocate General for Scotland) Order 1999

Made - - - - 10th March 1999
Laid before Parliament 22nd March 1999
Coming into force in accordance with article 1(2)

At the Court at Buckingham Palace, the 10th day of March 1999

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in pursuance of section 1 of the Ministers of the Crown Act 1975(1), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Transfer of Functions (Lord Advocate and Advocate General for Scotland) Order 1999.

(2) This Order shall come into force immediately before the time by reference to which the Lord Advocate's retained functions are determined for the purposes of section 52(6)(a) of the Scotland Act 1998(2).

(3) In this Order, "the Advocate General" means the Advocate General for Scotland.

Transfer of functions from Lord Advocate to Advocate General

2. The functions of the Lord Advocate under the enactments specified in the Schedule to this Order are hereby transferred to the Advocate General.

(1) 1975 c. 26.
(2) 1998 c. 46.

Supplemental and consequential

3. All property, rights and liabilities to which the Lord Advocate is entitled or subject at the coming into force of this Order in connection with any function transferred by this Order are hereby transferred to the Advocate General.

4.—(1) This Order shall not affect the validity of anything done (or having effect as if done) by or in relation to the Lord Advocate before the coming into force of this Order.

(2) Anything (including any 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 Advocate may, so far as it relates to anything transferred by this Order, be continued by or in relation to the Advocate General.

(3) Anything done (or having effect as if done) by or in relation to the Lord Advocate for the purposes of or in connection with anything transferred by this Order shall, if in force at the coming into force of this Order, have effect as if done by or in relation to the Advocate General in so far as that is required for continuing its effect after the coming into force of this Order.

(4) Any enactment, instrument or other document passed or made before the coming into force of this Order shall have effect, so far as may be necessary for the purposes of or in consequence of any transfer effected by this Order, as if for any references to the Lord Advocate there were substituted references to the Advocate General.

A K Galloway
Clerk of the Privy Council

SCHEDULE

Article 2

FUNCTIONS TRANSFERRED FROM THE LORD ADVOCATE TO THE ADVOCATE GENERAL FOR SCOTLAND

Inland Revenue Regulation Act 1890 (c. 21), section 21(1);
Stamp Act 1891 (c. 39), section 121;
Government Annuities Act 1929 (c. 29), section 35;
Consolidation of Enactments (Procedure) Act 1949 (c. 33), section 3;
Wireless Telegraphy Act 1949 (c. 54), section 14(7);
Taxes Management Act 1970 (c. 9), section 100D(2)(3);
Telecommunications Act 1984 (c. 12), section 45(3)(4);
Data Protection Act 1984 (c. 35), section 27(6);
Inheritance Tax Act 1984 (c. 51), section 249(1);
Data Protection Act 1998 (c. 29), section 28(10).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for transfer to the Advocate General for Scotland of the functions of the Lord Advocate under the enactments specified in the Schedule to the Order.

Articles 3 and 4 of the Order contain provisions which are supplementary to, or consequential on, this transfer. In particular, article 3 provides for the transfer to the Advocate General for Scotland of all property, rights and liabilities to which the Lord Advocate is entitled or subject in connection with any function transferred.

The Order comes into force immediately before the time by reference to which the Lord Advocate's retained functions are determined for the purposes of section 52(6)(a) of the Scotland Act 1998 (c. 46). The Lord Advocate's retained functions are determined for the purposes of section 52(6)(a) as being "any functions exercisable by him immediately before he ceases to be a Minister of the Crown". The Lord Advocate ceases to be a Minister of the Crown when he becomes a member of the Scottish Executive by virtue of section 44(1)(c) of the Scotland Act 1998 and when there are repealed the entries relating to him in Schedule 2 to the House of Commons Disqualification Act 1975 (c. 24) and in Part III of Schedule 1 to the Ministerial and other Salaries Act 1975 (c. 27). These provisions are due to come into force on 20th May 1999 by virtue of the Scotland Act 1998 (Commencement) Order 1998 (S.I.1998/3178).

(3) Section 100D(2) was inserted by section 167 of the Finance Act 1989 (c. 26) and is applied, with modifications, by the Schedule to the Stamp Duty Reserve Tax Regulations 1986 (S.I. 1986/1711).

(4) Section 45 was substituted by the Interception of Communications Act 1985 (c. 56), section 11 and Schedule 2.