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WELSH STATUTORY INSTRUMENTS

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**2005 No. 3225 (W.237)**

**TOURISM, WALES**

**The Wales Tourist Board (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005**

*Made - - - - 22 November 2005*

*Coming into force the day after the order is made*

The National Assembly for Wales, in exercise of the powers conferred upon it by section 28 of and Schedule 4 to the Government of Wales Act 1998(1), makes the following Order:

**Title, commencement and interpretation**

1.—(1) The title of this Order is the Wales Tourist Board (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 and it comes into force on the day after it is made.

(2) In this Order:

the “Assembly” (*y “Cynulliad”*) means the National Assembly for Wales;

the “Board” (*y “Bwrdd”*) means the Wales Tourist Board;

“relevant employee” (*“cyflogai perthnasol”*) means any person who, immediately before the transfer date, was employed by the Board under a contract of employment; and

“transfer date” (*“dyddiad trosglwyddo”*) means 1 April 2006.

**Transfer of functions, property, rights and liabilities of the Board to the Assembly**

2.—(1) On the transfer date the functions of the Board are transferred to the Assembly in accordance with the provisions of Schedules 1 and 2 which amend the enactments and instruments relating to the Board for the purpose of:

(a) transferring its functions to the Assembly, and

(b) making provision consequential on or incidental or supplementary to the transfer.

(2) On the transfer date there are transferred to and vested in the Assembly by virtue of this paragraph all property, rights and liabilities to which the Board is entitled or subject immediately before that date.

(3) The rights and liabilities referred to in paragraph (2) above include those arising under any contract of employment made between a relevant employee and the Board.

(4) The Transfer of Undertakings (Protection of Employment) Regulations 1981<sup>(2)</sup> apply to the transfer of the functions of the Board to the Assembly whether or not apart from this provision, the discharge of these functions would be treated as an undertaking in the nature of a commercial venture for the purposes of those Regulations.

(5) A certificate issued by the Assembly that any property has been transferred by paragraph (2) is conclusive evidence of the transfer.

(6) Paragraph (2) has effect in relation to property, rights or liabilities to which it applied in spite of any provision (of whatever nature) which would prevent or restrict the transfer of the property, rights or liabilities otherwise than by that paragraph.

### **Transitional provisions**

**3.—**(1) Nothing in article 2 or Schedules 1 and 2 affects the validity of anything done by or in relation to the Board before its functions are transferred.

(2) There may be continued by or in relation to the Assembly anything (including legal proceedings) which—

- (a) relates to any of the functions of the Board or to any property, rights or liabilities transferred by article 2(2), and
- (b) is in the process of being done by or in relation to the Board when the said functions are transferred.

(3) Anything which—

- (a) was done by the Board for the purpose of or in connection with any of its functions or by the Board for the purpose of or in connection with any property, rights or liabilities transferred by article 2(2); and
- (b) is in effect immediately before its functions are transferred,

is to have effect as if done by the Assembly.

(4) The Assembly is substituted for the Board in any instruments, contracts or legal proceedings which relate to—

- (a) any of the functions of the Board, and
- (b) any property, rights or liabilities transferred by article 2(2),

and which are made or commenced before its functions are transferred.

(5) On the transfer date the obligations of the Board, the Assembly and the Auditor General for Wales referred to below contained in section 6 of the Development of Tourism Act 1969<sup>(3)</sup> will have effect in respect of the financial year 2005 to 2006 only but are otherwise abolished:

- (a) the Board's obligation under section 6(1) to prepare a statement of account, save that the obligation is transferred to the Assembly,
- (b) the Assembly's obligation under section 6(3) to transmit the statement of account to the Auditor General for Wales, and
- (c) the Auditor General for Wales' obligation under section 6(4) to examine and certify the statement of account and lay before the Assembly copies of the statement of account together with a report thereon.

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(2) S.I. 1981/1794, as amended by the Trade Union Reform and Employment Rights Act 1993 (c. 19) by the Dock Work Act 1989 (c. 13) and by Statutory Instruments 1987/442, 1995/2587, 1998/1658, 1999/1925, 1999/2402 and 1999/2587.

(3) 1969 c. 51.

### **Abolition**

4. Upon the transfer of its functions, property, rights and liabilities to the Assembly on the transfer date in accordance with article 2 the Board is to cease to exist.

### **Winding down**

5. The Board must give to the Assembly all the information and do all other things which appear to the Assembly appropriate for the purpose of facilitating the transfer of its functions to the Assembly and its abolition in accordance with this Order.

### **Amendments to existing enactments**

6.—(1) The provisions of the Development of Tourism Act 1969 and the Tourism (Overseas Promotion) (Wales) Act 1992(4) in Schedule 1 to this Order are amended in accordance with that schedule on the transfer date.

(2) The enactments specified in Schedule 2 to this Order are amended in accordance with that Schedule on the transfer date.

(3) The amendments to enactments extend to the same extent as the provision in the enactment that is amended.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(5).

22 November 2005

*D. Elis-Thomas*  
The Presiding Officer of the National Assembly

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(4) 1992 c. 26.  
(5) 1998 p.38.

## SCHEDULE 1

Article 6(1)

**PART 1****Development of Tourism Act 1969 (c. 51)**

The Development of Tourism Act 1969 is amended as follows.

**1.** In section 1 (Establishment of British Tourist Authority, English Tourist Board, Scottish Tourist Board and Wales Tourist Board)—

(1) in subsection (1), for “four” substitute “three” and for “, the Scottish Tourist Board and the Wales Tourist Board” substitute “and the Scottish Tourist Board”;

(2) in paragraph (b) of subsection (2), for “the chairman of the Wales Tourist Board” substitute “a person appointed by the National Assembly for Wales”;

(3) in subsection (3)—

(a) for “Trade,” substitute “Trade and”, and

(b) omit “, and the Wales Tourist Board shall consist of a chairman and not more than six other members appointed by the Secretary of State for Wales”;

(4) in subsection (6), for “Trade,” substitute “Trade and” and omit “and, in relation to the Wales Tourist Board, the Secretary of State for Wales”; and

(5) in the heading, for “, Scottish Tourist Board and Wales Tourist Board” substitute “and Scottish Tourist Board”.

**2.** In section 2 (General functions and powers)—

(1) in subsection (1), for “Wales Tourist Board” substitute “National Assembly for Wales”;

(2) in subsection (2), for “and (4)” substitute “, (4) and (4A)” and after “each Tourist Board” insert “and the National Assembly for Wales” and in paragraph (e) after “Board” insert “or the National Assembly for Wales”;

(3) in subsection (3), after “Tourist Boards” insert “or the National Assembly for Wales”;

(4) after subsection (4) add—

“(4A) The National Assembly for Wales shall also have no such power under this Act, except as provided by sections 3 and 4A.”;

(5) in subsection (5), for “Wales Tourist Board” substitute “National Assembly for Wales”, after “Boards” in the first and second place it occurs insert “or the National Assembly for Wales” and in the third place it occurs insert “and the National Assembly for Wales”;

(6) in subsection (6)—

(a) after “each Tourist Board” insert “and the National Assembly for Wales”, and

(b) after “other Tourist Boards” insert “and, as appropriate, the National Assembly for Wales”;

(7) after subsection (7) add—

“(7A) The National Assembly for Wales may charge for its services and receive contributions towards its expenses in carrying out any of its functions under this Act as read with the Tourism (Overseas Promotion) (Wales) Act 1992”(6); and

(8) after subsection (8) add—

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(6) 1992 c. 26

“(8A) The National Assembly for Wales may borrow money for the purposes of exercising its functions under this Act as read with the Tourism (Overseas Promotion) (Wales) Act 1992.”.

**3.** In section 3 (General schemes of assistance for tourist projects)—

(1) in subsection (1), for “Wales Tourist Board” substitute “National Assembly for Wales” and after “Boards” insert “and the National Assembly for Wales”;

(2) in subsection (4), after “a Tourist Board” insert “and the National Assembly for Wales”; and

(3) in subsection (5), for “Wales Tourist Board” substitute “National Assembly for Wales”.

**4.** After section 4 (Execution of particular tourist projects) add—

**4A** Execution of particular tourist projects: Wales

(1) The National Assembly for Wales shall have power—

(a) to give financial assistance for the carrying out of any project which in its opinion will provide or improve tourist amenities and facilities in Wales;

(b) to carry out any such project as aforesaid.

(2) Financial assistance under subsection (1) of this section may be given by way of grant or loan or, if the project is being or is to be carried out by a company incorporated in Great Britain, by subscribing for or otherwise acquiring shares or stock in the company or by any combination of those methods.

(3) In making a grant or loan under subsection (1)(a) of this section the National Assembly for Wales may impose such terms and conditions as it thinks fit, including conditions for the repayment of a grant in specified circumstances; and Schedule 2 to this Act shall have effect for securing compliance with conditions subject to which any such grant is made.

(4) The National Assembly for Wales shall not dispose of any shares or stock acquired by it by virtue of this section except after consultation with the company in which the shares or stock are held.”.

**5.** In sub-paragraph (1) of section 5 (Miscellaneous duties and powers), for “Wales Tourist Board” substitute “National Assembly for Wales”.

**6.** In section 17 (Registration of tourist accommodation)—

(1) in subsection (1), after “Boards” insert “and the National Assembly for Wales”;

(2) in subsection (3), in paragraph (a) for “Wales Tourist Board” substitute “National Assembly for Wales”, and in paragraph (c) after “any Tourist Board” insert “or the National Assembly for Wales” and after “the Board” insert “or (as the case may be) the Assembly”;

(3) in subsection (4), for “Secretary of State for Wales” substitute “National Assembly for Wales”; and

(4) after subsection (7) add—

“(7A) Subsection (7) applies in relation to the National Assembly for Wales if it is maintaining such a register as it applies in relation to a Tourist Board.”.

**7.** In Schedule 2 (Enforcement of conditions of grant)—

(1) after sub-paragraph (1) of paragraph 1 add—

“(1A) Sub-paragraph (1) applies in relation to the National Assembly for Wales and any person who has received a grant from the Assembly (and any person acting on that person’s behalf) as it applies in relation to a Tourist Board and the corresponding persons.”;

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(2) in sub-paragraph (1) of paragraph 2, after “Tourist Board” insert “or the National Assembly for Wales” and after “the Board” insert “or (as the case may be) the Assembly”; and

(3) in sub-paragraph (1) of paragraph 3, after “Tourist Board” insert “or the National Assembly for Wales”.

## PART 2

### **Tourism (Overseas Promotion) (Wales) Act 1992 (c. 26)**

The Tourism (Overseas Promotion) (Wales) Act 1992 is amended as follows—

1. In section 1 (Power of the Wales Tourist Board to engage outside the UK in the promotion of tourism in Wales)-:

- (1) in subsection (1), for “Wales Tourist Board” substitute “National Assembly for Wales”;
- (2) omit subsection (2);
- (3) in subsection (3)(b), for “Wales Tourist Board” substitute “National Assembly for Wales”; and
- (4) in the heading, for “Wales Tourist Board” substitute “National Assembly for Wales”.

## SCHEDULE 2

Article 6(2)

## PART 1

### **Primary Legislation:**

#### *House of Commons Disqualification Act 1975 (c. 24)*

1. In Schedule 1 (Offices disqualifying for membership) to the House of Commons Disqualifying Act 1975, in Part III, in the entry relating to any member in receipt of remuneration of the British Tourist Authority (etc), for “, the Scottish Tourist Board or the Wales Tourist Board” substitute “or the Scottish Tourist Board”.

#### *Race Relations Act 1976 (c. 74)*

2. In Part II of Schedule 1A (Bodies and other persons subject to general statutory duty) to the Race Relations Act 1976, omit the entry relating to the Wales Tourist Board.

#### *Greater London Authority Act 1999 (c. 29)*

3. In the Greater London Authority Act 1999:

(1) in subsection (5) of section 378 (Duty of the authority to promote tourism) after paragraph (a) insert:

“(aa) the National Assembly for Wales”; and

(2) in subsection (11) of section 378:

(a) at the end of paragraph (c) insert “or”; and

(b) omit paragraph (e) and the word “or” preceding it.

*Care Standards Act 2000 (c. 14)*

4. In Schedule 2A (Persons subject to review by the Commissioner under section 72B) to the Care Standards Act 2000, omit paragraph 21.

*Freedom of Information Act 2000 (c. 36)*

5. In Part VI of Schedule 1 (Public authorities) to the Freedom of Information Act 2000, omit “The Wales Tourist Board.”.

*International Development Act 2002 (c. 1)*

6. In the International Development Act 2002:

(1) in subsection (4)(b) of section 9 (Powers of statutory bodies), after “Welsh body” add “other than the National Assembly for Wales”; and

(2) in Schedule 1 (Statutory bodies to which section 9 applies), for “Wales Tourist Board” substitute “The National Assembly for Wales”.

*Public Services Ombudsman (Wales) Act 2005 (c. 10)*

7. In Schedule 3 (Listed authorities) to the Public Services Ombudsman (Wales) Act 2005, omit “The Wales Tourist Board”.

## PART 2

### Subordinate Legislation:

*Local Authorities (Goods and Services) (Public Bodies) Order 1975 (SI 1975/193)*

1. In the Schedule (National bodies or bodies related to a national body) to the Local Authorities (Goods and Services) (Public Bodies) Order 1975:

(1) omit “The Wales Tourist Board”; and

(2) in the entry beginning “A regional tourist board ... ..” omit “or the Wales Tourist Board”.

*Welsh Language Schemes (Public Bodies) Order 1996 (SI 1996/1898)*

2. In the Schedule to the Welsh Language Schemes (Public Bodies) Order 1996, omit “Wales Tourist Board” and “Bwrdd Croeso Cymru”.

*National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672)*

3. In the National Assembly for Wales (Transfer of Functions) Order 1999, in Schedule 1, in the entry for the Development of Tourism Act 1969—

(a) in the first sentence (following on from the name of the Act), omit the words “in respect of all the functions vested in the Secretary of State for Wales by virtue of section 1(3) and (6).”;

(b) omit the second sentence (commencing “The Treasury approval requirements under sections 2(8) etc”);

(c) omit the fourth sentence (commencing “The function of “the Minister of the Civil Service” etc”); and

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- (d) except for the purposes of the statement of account for the financial year 2005 to 2006 provided for in article 3(5) of this Order, omit the second sentence (commencing “The Treasury approval requirements under section 6(1) etc) and the fourth sentence (commencing “The functions of the Comptroller and Auditor General etc).

*Financial Services and Markets Act 2000 (Exemption) Order 2001 (SI 2001/1201)*

**4.** In Part III (Persons exempt in respect of any regulated activity mentioned in article 5(1)) of the Schedule to the Financial Services and Markets Act 2000 (Exemption) Order 2001 omit “The Wales Tourist Board”.

*The Traffic Signs Regulations and General Directions 2002 (SI 2002/3113)*

**5.** In regulation 4 (Interpretation- general) of the Traffic Signs Regulations and General Directions 2002—

- (a) in the definition of “tourist destination”, for “Wales Tourist Board” substitute “National Assembly for Wales”;
- (b) in the definition of “Tourist Information Centre”, for “England or Wales Tourist Boards” substitute “England Tourist Board, National Assembly for Wales”; and
- (c) in the definition of “Tourist Information Point”, after “tourist board” insert “or the National Assembly for Wales”.

*The National Assembly for Wales (Disqualification) Order 2003 (SI 2003/437)*

**6.** In the Schedule (Offices disqualifying holders from membership of the National Assembly) to the National Assembly for Wales (Disqualification) Order 2003, omit “The Wales Tourist Board”.

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## EXPLANATORY NOTE

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

Section 28 of the Government of Wales Act 1998 gives the National Assembly for Wales (the “Assembly”) powers to reform certain public bodies in Wales listed in Schedule 4 to that Act. The section includes the power to transfer functions and to abolish such bodies where all their functions have been transferred.

This Order transfers the functions, property, rights and liabilities of the Wales Tourist Board (the “Board”) to the Assembly, provides for the transfer of staff from the Board to the Assembly and makes appropriate consequential, incidental, transitional and supplementary provisions. It also abolishes the Board.

**Article 2** provides for the transfer of the Board’s functions to the Assembly on *1 April 2006*. This article also provides for the transfer of the Board’s staff, property, rights and liabilities to the Assembly. Staff are transferred on the basis of the principles established by the Transfer of Undertakings (Protection of Employment) Regulations 1981 (S.I. [1981/1794](#)).

**Article 3** makes certain transitional provisions relating to the property, rights and liabilities and for the substitution of the Assembly for the Board in all relevant instruments, contracts or legal



proceedings. It also provides that the Board's statement of account for the financial year 2005-2006 is to be prepared by the Assembly. The statement of account for 2005-2006 is also to be sent to the Auditor General for Wales and copies subsequently laid before the Assembly together with the Auditor General's report in the usual way.

**Article 4** provides that immediately after the transfer of the Board's functions, property, rights and liabilities to the Assembly, the Board is abolished.

**Article 5** makes formal provision to reflect joint working between the Assembly and the Board for the purpose of facilitating the transfer of functions.

**Article 6** brings into effect on 1 April 2006 Schedules 1 and 2 to the Order, which make amendments to primary and secondary legislation that are consequential upon and incidental to the transfer of functions and abolition of the Board. The most substantive changes are to the Development of Tourism Act 1969 and to the Tourism (Overseas Promotion) (Wales) Act 1992. Redundant references to the Wales Tourist Board have been revoked.