

1968 No. 2038

## MINISTERS OF THE CROWN

## The Transfer of Functions (Sea Transport, etc.) Order 1968

Made - - - - - 20th December 1968  
Laid before Parliament 31st December 1968  
Coming into Operation 1st January 1969

At the Court at Buckingham Palace, the 20th day of December 1968

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in pursuance of section 1 of the Ministers of the Crown (Transfer of Functions) Act 1946(a), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

*Citation, interpretation and commencement*

- 1.—(1) This Order may be cited as the Transfer of Functions (Sea Transport, etc.) Order 1968.
- (2) The Interpretation Act 1889(b) applies for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.
- (3) This Order shall come into operation on 1st January 1969.

*Transfer of functions, and consequential transfer of rights and liabilities*

2.—(1) In relation to the functions exercised at the date of this Order by the Minister of Transport in connection with the provision, acquisition, management and disposal of ships and shipping accommodation and of machinery, plant and equipment for use in shipping or for the purposes of shipping (except any such functions not exercised by him through the sea transport division of his Ministry), and in relation to the functions exercised or exercisable by the Minister of Transport under the Marine and Aviation Insurance (War Risks) Act 1952(c), the Board of Trade shall replace the Minister of Transport.

(2) Any rights or liabilities of the Minister of Transport arising from an agreement or contract entered into in connection with any of the functions transferred by paragraph (1) above, or from any thing done under or in pursuance of any such agreement or contract, shall be rights and liabilities of the Board of Trade; and any outstanding rights and obligations of that Minister by reason of Part I of the War Risks Insurance Act 1939(d), shall be rights and obligations of the Board.

(a) 1946 c. 31.

(b) 1889 c. 63.

(c) 1952 c. 57.

(d) 1939 c. 57.

3.—(1) Without prejudice to the continued validity of anything done before the coming into operation of this Order, the Board of Trade shall also replace the Minister of Transport in relation to the functions exercised or exercisable by that Minister under or by virtue of any of the following:—

- (a) section 143 of the Public Health Act 1936(a) (treatment and prevention of infectious diseases);
- (b) section 64(1) of the Finance Act 1940(b) (remission of death duties in cases of members of crews killed in war);
- (c) except as provided by paragraph (2) below, so much of any enactment in a local Act or of any provisional order as relates to the foreshore or tidal lands (with or without other land) and restricts the making or operation of byelaws affecting the foreshore or tidal lands.

(2) Paragraph (1)(c) above shall not apply where the power to make the byelaws is exercisable by a harbour authority for the purposes of their functions as harbour authority; and in this paragraph “harbour authority” means, in relation to Great Britain, a harbour authority within the meaning of the Harbours Act 1964(c) and, in relation to Northern Ireland a person in whom are vested by or under any enactment functions of improving, maintaining or managing a harbour, whether natural or artificial, or any port, haven or estuary.

#### *Provisions supplementary to Article 2*

4.—(1) For the purpose of giving effect to Article 2(1) and (2) above—

- (a) in section 1(2)(b) of the Restriction of Advertisement (War Risks Insurance) Act 1939(d), as amended by section 8 of the Marine and Aviation Insurance (War Risks) Act 1952(e), for the words “Minister of Transport” there shall be substituted the words “Board of Trade”; and
- (b) in the provisions other than section 8 of the Marine and Aviation Insurance (War Risks) Act 1952(e) any reference to the Minister of Transport shall have effect as a reference to the Board of Trade, except in so far as paragraph (2) below provides to the contrary; and
- (c) so far as may be necessary for or in consequence of any transfer effected by Article 2(1) or (2), any agreement or contract shall have effect as if references to the Minister of Transport or to his officers or department (including references which are to be construed as such a reference) were references to the Board of Trade or to officers or the department of the Board.

(2) Paragraph (1)(b) above, in its application to section 7(1)(a) to (c) of the Marine and Aviation Insurance (War Risks) Act 1952(e) (which describe the instruments exempt under the section from certain provisions about stamp duty and from requirements of the Marine Insurance Act 1906(f)), shall not restrict the operation of section 7(1)(a) to (c) in relation to any agreement or contract entered into before the date when this Order comes into operation or to any policy or certificate issued in pursuance of or in connection with any such agreement or contract; and from that date approvals previously given under section 7(4) of the Act by the Minister of Transport shall have effect as approvals given by the Board of Trade under section 7(4) as modified by this Order.

(a) 1936 c. 49.  
(d) 1939 c. 120.

(b) 1940 c. 29.  
(e) 1952 c. 57.

(c) 1964 c. 40.  
(f) 1906 c. 41.

(3) Article 2 above shall not affect the operation in relation to Government ships in the service of the Minister of Transport of the Order in Council(a) made on the 14th July 1921 under section 80 of the Merchant Shipping Act 1906(b) with reference to Government ships in the service of the Board of Trade, and that Order shall have effect both in relation to Government ships in the service of the Minister (with references to the Minister replacing the original references to the Board by virtue of the Ministry of War Transport (Dissolution) Order 1946(c)) and in relation to Government ships in the service of the Board; and accordingly as regards Government ships which at the coming into operation of this Order are in the service of the Minister in connection with functions transferred by Article 2 above, that Order shall thereupon apply to those ships as ships in the service of the Board of Trade, and the necessary alterations shall be made in the entries relating to the ships in the register book.

(4) Article 2 above shall not be taken to affect the exercise of any functions by a Minister of the Crown or government department other than the Minister of Transport and the Board of Trade, or to prejudice any powers exercisable in relation to the functions of Ministers of the Crown and government departments by virtue of Her Majesty's prerogative.

*W. G. Agnew*

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#### EXPLANATORY NOTE

*(This Note is not part of the Order.)*

This Order provides for the transfer from the Minister of Transport to the Board of Trade on the 1st January 1969 of—

- (a) the functions in connection with the provision, acquisition, management and disposal of ships and shipping accommodation and with related matters exercised by the Sea Transport Division of the Ministry of Transport;
- (b) the functions of the Minister under the Marine and Aviation Insurance (War Risks) Act 1952 (which empowers the Minister to undertake the insurance of ships, aircraft and cargoes against war risks); and
- (c) certain miscellaneous functions of a minor nature relating to shipping and to the sea which are similar to those previously transferred to the Board of Trade by the Transfer of Functions (Shipping and Construction of Ships) Order 1965 (S.I. 1965/145).

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(a) S.R. & O. 1921/1211 (Rev. XIV, p. 64; 1921, p. 544).  
(c) S.R. & O. 1946/375 (Rev. XV, p. 229; 1946 I, p. 1009).

(b) 1906 c. 48.