

## 1970 No. 1536

## MINISTERS OF THE CROWN

## The Transfer of Functions (Wales) Order 1970

<i>Made</i> - - - -	19th October 1970
<i>Laid before Parliament</i>	19th October 1970
<i>Coming into Operation</i>	5th November 1970

At the Court at Buckingham Palace, the 19th day of October 1970

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) and section 4 of the Ministers of the Crown Act 1964(b), 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 (Wales) Order 1970.

(2) The Interpretation Act 1889(c) applies for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

(3) For purposes of this Order Monmouthshire is to be treated as part of Wales and not of England.

(4) This Order shall come into operation on 5th November 1970.

*General provisions for transfer of functions*

2.—(1) Subject to paragraphs (3) and (4) below, the functions of the Secretary of State for Education and Science in connection with primary and secondary education are, in matters only affecting Wales, hereby transferred to the Secretary of State for Wales.

(2) Subject as aforesaid, there are hereby also transferred to the Secretary of State for Wales (so as to be exercisable concurrently by either Secretary of State) the functions of the Secretary of State for Education and Science under the Endowed Schools Act 1869(d) and his functions under the Charities Act 1960(e).

Section 2(2) and (3) of the Charities Act 1960 shall, with the necessary adaptations, apply in relation to the exercise by Secretaries of State of powers possessed by them concurrently by virtue of this paragraph, as they apply in relation to the exercise by a Secretary of State and the Charity Commissioners of powers possessed concurrently by virtue of section 2.

(a) 1946 c. 31.                      (b) 1964 c. 98.                      (c) 1889 c. 63.  
(d) 1869 c. 56.                      (e) 1960 c. 58.

(3) This Article shall not transfer any power of the Secretary of State for Education and Science to make regulations or other power exercisable by statutory instrument, except the powers (in so far as they are so exercisable)—

(a) to make orders under paragraph 3 (joint education committees) of Part II of Schedule 1 to the Education Act 1944(a) ; and

(b) to make orders under section 19 (schemes for charities) of the Charities Act 1960(b).

(4) Except as provided by Article 5 below, nothing in this Order shall confer on the Secretary of State for Wales functions in relation to the qualifications (including disqualification), training, supply, remuneration or superannuation of teachers or to the appointment of Her Majesty's Inspectors.

3.—(1) Subject to Article 2(4) and Article 5(4) of this Order, any power to make regulations conferred on the Secretary of State for Education and Science by the Education Acts 1944 to 1970 is hereby transferred, so far as relates to primary or secondary education and matters incidental thereto, to the Secretary of State for Education and Science and the Secretary of State for Wales jointly ; and there is also transferred to them jointly any power or duty of the Secretary of State for Education and Science under section 35 proviso of the Education Act 1944 (which provides for the raising of the upper limit of compulsory school age).

(2) The power to make regulations for purposes of section 21 of the Children Act 1948(c) (allocation of functions between local authorities and local education authorities) shall, as respects England and Wales, belong to the Secretary of State for Social Services, the Secretary of State for Education and Science and the Secretary of State for Wales jointly.

(3) For section 43(1) of the Charities Act 1960 there shall be substituted the following subsection :—

“(1) Save as otherwise provided by this Act, any power to make regulations which is conferred by this Act shall be exercisable by the Secretary of State for the Home Department, the Secretary of State for Education and Science or the Secretary of State for Wales, or by them or any two of them jointly” ;

and in section 43(3) for the words “ the Secretary of State or the Minister of Education ” there shall be substituted the words “ or Secretaries of State ”.

#### *Central Advisory Council for Wales*

4. Any appointment under section 4 of the Education Act 1944 of a person to be chairman or a member of the Central Advisory Council for Wales or of a secretary to the Council may be made by the Secretary of State for Education and Science and by the Secretary of State for Wales, or by either of them on behalf of both ; and the secretary may be an officer either of the Department of Education and Science or of the Welsh Office.

#### *Register of independent schools*

5.—(1) The functions transferred to the Secretary of State for Wales by Article 2(1) above shall, in relation to independent schools in Wales, include the functions of the Secretary of State for Education and Science under Part III of the Education Act 1944, notwithstanding that it provides for the

(a) 1944 c. 31.

(b) 1960 c. 58.

(c) 1948 c. 43.

disqualification of teachers and that disqualifications imposed on persons in or in consequence of the exercise of those functions extend throughout Great Britain ; and the power under section 74 to remove a disqualification imposed on a person shall be exercisable by the Secretary of State for Education and Science or by the Secretary of State for Wales, according as the disqualification originated in England or in Wales.

(2) The Secretary of State for Education and Science shall appoint one of his officers to be Registrar of Independent Schools for England, and the Secretary of State for Wales shall appoint one of his officers to be Registrar of Independent Schools for Wales ; and separate registers shall be kept accordingly, under section 70 of the Education Act 1944, of independent schools in England and of independent schools in Wales.

(3) The separate registers shall be established in the first instance by division of the register maintained under section 70 at the coming into operation of this Order, and until they are so established registration in that register shall be treated as registration in the appropriate separate register.

(4) The power to make regulations under section 70(4) of the Education Act 1944 shall be exercisable by the Secretary of State for Education and Science in relation to the register of independent schools in England and by the Secretary of State for Wales in relation to the register of independent schools in Wales.

#### *Supplemental*

6.—(1) With any functions transferred by this Order there shall be transferred to the Secretary of State for Wales all rights and liabilities to which the Secretary of State for Education and Science is entitled or subject in connection with those functions at the coming into operation of this Order.

(2) This Order shall not affect the validity of anything done by or in relation to the Secretary of State for Education and Science before the coming into operation of this Order ; and anything which at the coming into operation of this Order is in process of being done by or in relation to that Secretary of State may, if it relates to any functions, rights or liabilities, transferred by this Order, be continued by or in relation to the Secretary of State for Wales.

(3) Any authorisation given (by way of approval or otherwise), requirement imposed or appointment made by the Secretary of State for Education and Science in connection with any functions transferred by this Order (or having effect as if so given, imposed or made) shall, if in force at the coming into operation of this Order, have effect as if given, imposed or made by the Secretary of State for Wales in so far as that is required for continuing its effect after the coming into operation of this Order.

(4) Subject to any express amendment made by this Order, any enactment, instrument or contract passed or made before the coming into operation of this Order shall have effect, so far as may be necessary for the purpose or in consequence of the transfers effected by this Order, as if any reference to the Secretary of State for Education and Science or to his department or to an officer of his (including any reference which is to be construed as such a reference) were or included a reference to the Secretary of State for Wales or to his department or an officer of his, as the case may be.

*W. G. Agnew.*

**EXPLANATORY NOTE**

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

This Order transfers to the Secretary of State for Wales the functions of the Secretary of State for Education and Science relating to primary and secondary education in Wales and Monmouthshire except that under Article 2(4) of the Order the Secretary of State for Education and Science remains responsible for the functions in relation to the qualifications, training, supply, remuneration and superannuation of teachers and to the appointment of Her Majesty's Inspectors.

SI 1970/1536  
ISBN 0-11-001536-3

