

1970 No. 1537

## MINISTERS OF THE CROWN

## The Secretary of State for Trade and Industry Order 1970

<i>Made</i> - - - -	19th October 1970
<i>Laid before Parliament</i>	19th October 1970
<i>Coming into Operation</i>	20th October 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 sections 1 and 2 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 Secretary of State for Trade and Industry 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) This Order shall come into operation on 20th October 1970.

*Transfer of functions to Secretary of State*

2.—(1) There are hereby transferred to the Secretary of State—

(a) so as to be exercisable concurrently with the Board of Trade, all the functions of the Board ; and

(b) so as to be exercisable concurrently with the President of the Board, all the functions of the President other than his functions in the Board and any power to act for the Board.

(2) There are hereby also transferred to the Secretary of State the functions of the Minister of Technology other than functions conferred on him by the enactments mentioned in Part I of Schedule 1 to this Order, but so that this transfer shall not be taken either—

(a) except as mentioned in Part II of the Schedule, to extend to the powers exercisable by the Minister of Technology under the enactments and instruments there listed or to affect any reference to him (or reference which has effect as such a reference) in those enactments and instruments ; or

(b) to affect the exercise by the Minister of Technology of powers belonging generally to Ministers of the Crown (whether conferred by statute or otherwise).

(a) 1946 c. 31.

(b) 1964 c. 98.

(c) 1889 c. 63.

(3) In section 9(11) of the Agriculture Act 1967(a) (which, as originally enacted, required the President of the Board of Trade to be consulted before certain agreements were excepted from Part I of the Restrictive Trade Practices Act 1956(b)) for the words "the President of the Board of Trade" there shall be substituted the words "the Secretary of State for Trade and Industry", in place of the words "the Secretary of State for Employment and Productivity" substituted by the Transfer of Functions (Monopolies, Mergers and Restrictive Trade Practices) Order 1969(c).

*Restyling of Secretary of State for Employment and Productivity and of Minister of Technology*

3.—(1) The Secretary of State for Employment and Productivity and the Minister of Technology shall hereafter be known respectively as the Secretary of State for Employment and the Minister of Aviation Supply, and their departments as the Department of Employment and the Ministry of Aviation Supply.

(2) Subject to the provisions of this Order, the new style and title of the Secretary of State and the Minister and of their departments shall be substituted for the previous style and title in all enactments relating to them (including in the case of the Minister the enactments mentioned in Schedule 1 to this Order) and in all instruments, contracts and legal proceedings made or commenced before the coming into operation of this Order.

*Style, seal and acts of Secretary of State for Trade and Industry*

4.—(1) The person who at the coming into operation of this Order is Secretary of State for Trade and Industry and his successors shall be, by that name, a corporation sole (with a corporate seal), but so that anything done by or in relation to any other Secretary of State for the Secretary of State for Trade and Industry as a corporation sole shall have effect as if done by or in relation to the Secretary of State for Trade and Industry.

(2) The corporate seal of the Secretary of State for Trade and Industry shall be authenticated by the signature of a Secretary of State, or of a Secretary to the Department of Trade and Industry, or of a person authorised by a Secretary of State to act in that behalf.

(3) The corporate seal of the Secretary of State for Trade and Industry shall be officially and judicially noticed, and every document purporting to be an instrument made or issued by the Secretary of State for Trade and Industry and to be sealed with that seal authenticated in the manner provided by paragraph (2) above, or to be signed or executed by a Secretary to the Department of Trade and Industry or a person authorised as aforesaid, shall be received in evidence and 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 Trade and Industry that any instrument purporting to be made or issued by him was so made or issued shall be conclusive evidence of that fact.

5. In Schedule 2 to the Parliamentary Commissioner Act 1967(d) after the entry for the Board of Trade there shall be inserted the entry "Department of Trade and Industry", and in note 5 (which extends the reference to the Board of Trade so as to include certain bodies exercising delegated functions) after the words "the Board of Trade" there shall be inserted the words "or the Department of Trade and Industry".

(a) 1967 c. 22. (b) 1956 c. 68. (c) S.I. 1969/1534 (1969 III, p. 4991). (d) 1967 c. 13.

*Supplemental*

6.—(1) The enactments mentioned in Schedule 2 to this Order shall have effect subject to the modifications provided for by that Schedule.

(2) Subject to the provisions of Schedule 2 to this Order, where in connection with any functions transferred by this Order any enactment or instrument provides for anything to be done by or in relation to both the Minister of Technology and a Secretary of State, it shall be read as providing for it to be done by or in relation to both the Secretary of State for the time being discharging those functions and such other Secretary of State (if any) as may be concerned ; and similarly with things to be done by or in relation to both the Board of Trade or the President of the Board and a Secretary of State, in so far as they are done by or in relation to a Secretary of State instead of the Board or President.

7.—(1) All property, rights and liabilities to which immediately before the coming into operation of this Order the Minister of Technology is entitled or subject in connection with the functions of the Minister transferred to the Secretary of State by Article 2(2) above are hereby transferred to the Secretary of State for Trade and Industry ; and this provision shall apply to property, rights and liabilities to which the Minister is then entitled or subject in connection with functions transferred by Article 2(2), notwithstanding that he is entitled or subject thereto by reason of the exercise of powers that are to be retained by him in accordance with Article 2(2)(a) and (b).

(2) This Order shall not affect the validity of anything done by or in relation to the Minister of Technology 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 the Board of Trade, the President of the Board of Trade or the Minister of Technology (including in particular any legal proceedings to which any of them is a party) may, if it relates to any functions, property, rights or liabilities transferred by this Order, be continued by or in relation to the Secretary of State for Trade and Industry.

(3) Any authorisation given (by way of approval or otherwise), requirement imposed or appointment made by the Minister of Technology in connection with 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 Trade and Industry in so far as that is required for continuing its effect after the coming into operation of this Order.

(4) Subject to Article 6 above, 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 Board of Trade, the President of the Board of Trade or the Minister of Technology or to the department or an officer of the Board or of that Minister (including any reference which is to be construed as such a reference) were or included a reference to the Secretary of State or to his Department or an officer of his, as the context may require.

(5) Documents or forms printed or duplicated for use in connection with any functions of the Minister of Technology transferred by this Order may be so used notwithstanding that they contain references to that Minister or, in connection with functions previously transferred to him from the Board of Trade, to the Board, and those references shall be construed as references to the Secretary of State for Trade and Industry ; and similarly with references to the department or an officer of that Minister or of the Board.

*W. G. Agnew.*

## SCHEDULE 1

## ENACTMENTS CONTINUING TO APPLY TO MINISTER OF AVIATION SUPPLY

## PART I

## ENACTMENTS CONFERRING PRINCIPAL FUNCTIONS

1. The Ministry of Supply Act 1939(a) and the enactments amending it.
2. The Civil Aviation Act 1949(b), together with sections 8 and 12 of the Industrial Expansion Act 1968(c).

## PART II

## OTHER ENACTMENTS CONFERRING POWERS ON OR RELATING TO MINISTER

3. The Statistics of Trade Act 1947(d).
4. The Industrial Organisation and Development Act 1947(e), except as regards orders made under that Act before the coming into operation of this Order.
5. Section 18 of the Patents Act 1949(f) and sections 2 to 6 of the Defence Contracts Act 1958(g).
6. Sections 7 to 11 of the Land Powers (Defence) Act 1958(h).
7. Except as, at the coming into operation of this Order, they apply in connection with the functions of the Minister of Technology under the Atomic Energy Act 1946(i) and the Atomic Energy Authority Act 1954(j),—
  - (a) paragraph 1 of Schedule 2 to the Emergency Laws (Miscellaneous Provisions) Act 1947(k); and
  - (b) paragraph 8 of Schedule 1 to the Emergency Laws (Miscellaneous Provisions) Act 1953(l); and
  - (c) any Orders in Council made under the Ministry of Supply Act 1939.
8. Section 2(2) proviso of the Atomic Energy Authority Act 1954.
9. Section 2 of the Shipping Contracts and Commercial Documents Act 1964(m).
10. Section 5 of the Science and Technology Act 1965(n), except that the reference in subsection (1)(b) to the Minister of Technology shall extend to the Secretary of State for Trade and Industry.
11. The Military Aircraft (Loans) Act 1966(o).

## SCHEDULE 2

## CONSEQUENTIAL MODIFICATIONS OF ENACTMENTS

1. The Coastguard Act 1925(p) shall have effect as if in sections 1(1) and 2 references (as originally enacted) to the Board of Trade and to the Admiralty, except in section 1(1) the last reference but one to the Board of Trade, were respectively references to the Board of Trade or the Secretary of State for Trade and Industry and to the Secretary of State for Defence.
2. In the Harbours, Piers and Ferries (Scotland) Act 1937(q) references to the Secretary of State and to the Board of Trade shall have effect respectively as

(a) 1939 c.38.	(b) 1949 c.67.	(c) 1968 c.32.	(d) 1947 c.39.
(e) 1947 c.40.	(f) 1949 c.87.	(g) 1958 c.38.	(h) 1958 c.30.
(i) 1946 c.80.	(j) 1954 c.32.	(k) 1947 c.10 (11 & 12 Geo. 6)	
(l) 1953 c.47.	(m) 1964 c.87.	(n) 1965 c.4.	(o) 1966 c.15.
	(p) 1925 c.88.	(q) 1937 c.28.	

references to the Secretary of State for Scotland and to the Board of Trade or the Secretary of State for Trade and Industry.

3.—(1) Anything which, by the enactments mentioned in sub-paragraph (2) below, is required or authorised to be done jointly by the Minister within the meaning of the Electricity Act 1947(a) and the Secretary of State shall be done jointly by the Secretary of State for the time being discharging the functions expressed to be conferred on the Minister by that Act and the Secretary of State for Scotland.

(2) The enactments referred to in sub-paragraph (1) above are:—

(a) sections 54 and 55 of the Electricity Act 1947 ; and

(a) section 1(3) of the Electricity Reorganisation (Scotland) Act 1954(b) and Part 2 of Schedule 1 to that Act as it amends sections 2, 4, 19 and 60 of the Electricity Act 1947.

4. In the Civil Aviation Act 1949 section 16(1) proviso shall be omitted.

5. In section 184 of the Mines and Quarries Act 1954(c) “ the Ministers ” shall mean the Secretary of State for the time being discharging the functions expressed to be conferred by that Act on the Minister and the Secretary of State for Employment, and section 174 shall apply accordingly.

6. In the Pipe-lines Act 1962(d), in section 39(2), the reference (as originally enacted) to the Minister and the Minister of Transport jointly shall have effect as a reference to the Secretary of State.

7. In section 26(1) of the Nuclear Installations Act 1965(e) the reference (as originally enacted) in the definition of “ prescribed ” to the Minister of Power and the Secretary of State acting jointly shall have effect as a reference to those Secretaries of State acting jointly who for the time being discharge in relation to England and Wales and in relation to Scotland the functions expressed to be conferred by that Act on the Minister.

8. In section 58 of the Land Commission Act 1967(f) any reference (as originally enacted) to the Minister of Power shall have effect as a reference to the Secretary of State for Trade and Industry.

9. In the Development of Inventions Act 1967(g), in section 11(3), the references to the Minister of Technology shall have effect as references to the Secretary of State having for the time being general responsibility under that Act in relation to the National Research Development Corporation.

10. In the Sea Fish (Conservation) Act 1967(h), in sections 6 and 8, references to the Board of Trade shall have effect as references to the Secretary of State for Trade and Industry.

11. In the Gas and Electricity Act 1968(i), in section 5, the references to the Minister and to the Secretary of State shall have effect respectively as references to the Secretary of State for the time being discharging the functions expressed to be conferred on the Minister by that Act and to the Secretary of State for Scotland.

12. In the Development of Tourism Act 1969(j) references to the Board of Trade shall have effect as references to the Board of Trade or the Secretary of State for Trade and Industry.

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(a) 1947 c.54.	(b) 1954 c.60.	(c) 1954 c.70.	(d) 1962 c.58.
(e) 1965 c.57.	(f) 1967 c.1.	(g) 1967 c.32.	(h) 1967 c.84.
	(i) 1968 c.39.	(j) 1969 c.51.	

## EXPLANATORY NOTE

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

This Order provides for the Secretary of State to exercise concurrently with the Board of Trade and the President of the Board responsibility for all the respective functions of the Board and President; it transfers to the Secretary of State all the functions of the Minister of Technology except those exercisable under the Ministry of Supply Act 1939 and section 1 of the Civil Aviation Act 1949, which mainly relate to the aviation functions of that Minister; and, in connection with the transfer to the Secretary of State for Trade and Industry from the Secretary of State for Employment and Productivity of the latter's responsibilities relating to monopolies, mergers and restrictive trade practices, it provides for the exercise by the Secretary of State for Trade and Industry instead of the Secretary of State for Employment and Productivity of responsibility in relation to certain exemptions under the law of restrictive trade practices.

The title of the Secretary of State for Employment and Productivity is changed to "Secretary of State for Employment", and that of the Minister of Technology to "Minister of Aviation Supply".

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