
 STATUTORY INSTRUMENTS

1976 No. 1775

MINISTERS OF THE CROWN

The Secretary of State for Transport Order 1976*Made* - - - - 27th October 1976*Laid before Parliament* 4th November 1976*Coming into Operation* 8th November 1976

At the Court at Buckingham Palace, the 27th day of October 1976

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in pursuance of sections 1 and 2 of the Ministers of the Crown Act 1975(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 Secretary of State for Transport Order 1976.

(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) In this Order “transport functions of the Secretary of State” means such functions of the Secretary of State relating to highways, road traffic, road and rail transport, ports, docks and harbours, and other matters as—

(a) were exercisable, before 10th September 1976, by the Secretary of State for the Environment, and

(b) have been entrusted, before the making of this Order, to the Secretary of State for Transport;

and any reference in this Order to the transfer of such functions shall be construed accordingly.

(4) Any reference in this Order to an enactment or instrument is a reference to that enactment or instrument as amended or extended by or under any other enactment or instrument.

(5) This Order shall come into operation on 8th November 1976.

Transfer of functions and property

2.—(1) The functions of the Secretary of State for the Environment under the enactments specified in Schedule 1 to this Order are hereby transferred to the Secretary of State for Transport.

(2) All functions of the Secretary of State for the Environment under instruments made, before the making of this Order, in the exercise of any

transport functions of the Secretary of State or any functions transferred by paragraph (1) above are hereby transferred to the Secretary of State for Transport.

(3) All functions of the Secretary of State for the Environment which—

(a) are exercisable under local Acts or instruments passed or made before the making of this Order, and

(b) are similar to any transport functions of the Secretary of State or any functions transferred by paragraph (1) or (2) above,

are hereby transferred to the Secretary of State for Transport.

(4) There are hereby transferred to the Secretary of State for Transport all property, rights and liabilities to which the Secretary of State for the Environment is entitled or subject, at the coming into force of this Order, in connection with any transport functions of the Secretary of State or any functions transferred by this Order.

Functions of the Secretary of State exercisable jointly with the planning Minister

3.—(1) Schedule 2 to this Order shall have effect for securing that, in the exercise in England and Wales of certain functions of the Secretary of State relating to highways, the Secretary of State concerned shall, unless he is also the planning Minister, act jointly with that Minister.

(2) In this Article and in the said Schedule 2 “the planning Minister” means the Secretary of State for the time being having general responsibility in planning matters in relation to England or Wales, as the case may be.

Style, seal and acts of Secretary of State for Transport

4.—(1) The person who at the coming into operation of this Order is Secretary of State for Transport and his successors shall be, by that name, a corporation sole, with a corporate seal.

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

(3) The corporate seal of the Secretary of State for Transport shall be officially and judicially noticed, and every document purporting to be an instrument made or issued by the Secretary of State for Transport 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 Transport or a person authorised as above, 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 Transport that any instrument purporting to be made or issued by him was so made or issued shall be conclusive evidence of the fact.

(5) No stamp duty shall be chargeable on any instrument made by, to or with the Secretary of State for Transport.

5. In Schedule 2 to the Parliamentary Commissioner Act 1967(a) there shall be inserted at the appropriate place in alphabetical order the entry “Department of Transport”.

Supplemental

6.—(1) Schedule 3 to this Order, which contains amendments incidental to or consequential on the transfer of transport functions of the Secretary of State or the transfer of functions effected by this Order, shall have effect.

(2) The enactments and instruments mentioned in Schedule 4 to this Order are hereby repealed to the extent specified in column 2 of that Schedule; but, without prejudice to the operation in relation to this repeal of any provision of the Interpretation Act 1889, this repeal shall not affect any transfer of functions made before the coming into operation of this Order.

7.—(1) This Order shall not affect the validity of anything done by or in relation to the Secretary of State for the Environment before the coming into operation of this Order; and anything which at the coming into operation of this Order is in the process of being done by or in relation to the Secretary of State for the Environment (including in particular any legal proceedings to which he is a party) may, if it relates to transport functions of the Secretary of State or to functions, property, rights or liabilities transferred by this Order, be continued by or in relation to the Secretary of State for Transport.

(2) Any authorisation given (by way of approval or otherwise), requirement imposed or appointment made by the Secretary of State for the Environment in connection with transport functions of the Secretary of State or 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 Transport in so far as that is required for continuing its effect after the coming into operation of this Order.

(3) Subject to any express amendment or repeal 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 transfer of transport functions of the Secretary of State or the transfer of functions, property, rights or liabilities effected by this Order, as if any reference to the Secretary of State for the Environment or to his Department or 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 Transport or to his Department or an officer of his, as the case may be.

(4) Documents or forms printed or duplicated for use in connection with any transport functions of the Secretary of State or any functions transferred by this Order may be so used notwithstanding that they contain references to the Secretary of State for the Environment, and those references shall be construed as references to the Secretary of State for Transport; and similarly with references to the Department or an officer of the Secretary of State for the Environment.

(5) Where any instrument in force at the coming into operation of this Order requires a sign or plate to be exhibited which embodies the name of the Department of the Environment or the Ministry of Transport, nothing in this Order shall be taken to affect that requirement, but signs or plates complying with that instrument as in force before the coming into operation of this Order may continue to be used until provision is made to the contrary.

N. E. Leigh

Article 2(1).

SCHEDULE 1

ENACTMENTS AS RESPECTS WHICH FUNCTIONS ARE TRANSFERRED TO THE
SECRETARY OF STATE FOR TRANSPORT

The Harbours, Piers and Ferries (Scotland) Act 1937 (a).

The Public Health Act 1961 (b), section 49.

The Transport Act 1962 (c), section 86(6A) except so far as it relates to functions exercisable in relation to the British Waterways Board.

The Pipe-lines Act 1962 (d), section 15(6).

The Water Resources Act, 1963 (e) so far as it relates to functions originally conferred on the Minister of Transport and exercisable in relation to harbour authorities and conservancy authorities.

The Docks and Harbours Act 1966 (f), section 30(1).

The Transport Act 1968 (g), section 144 and, except so far as it relates to functions exercisable in relation to the British Waterways Board, section 137.

Article 3(1).

SCHEDULE 2

FUNCTIONS OF THE SECRETARY OF STATE EXERCISABLE JOINTLY WITH
THE PLANNING MINISTER*Functions relating to the making of highway orders and schemes*

1.—(1) For paragraphs 5 and 6 of Schedule 1 to the Highways Act 1959(h) there shall be substituted the following paragraphs:—

“ 5.—(1) If any objection to the proposed order—

(a) is received by the Secretary of State from any person on whom a copy of the notice is required to be served under paragraph 3 of this Schedule within the period specified in the notice in pursuance of paragraph 1(b) of this Schedule or, if that period has been extended by a subsequent notice under paragraph 4A of this Schedule, within the period specified in the subsequent notice, or

(b) is received by the Secretary of State from any other person appearing to him to be affected within the period specified in the notice or the subsequent notice, as the case may be,

and the objection is not withdrawn, then—

(i) in the case of an order proposed to be made by the Secretary of State, the Secretary of State and the planning Minister acting jointly, or

(ii) in the case of an order made by a local highway authority and submitted to the Secretary of State, the Secretary of State,

shall, subject to sub-paragraph (2) below, cause a local inquiry to be held.

(2) Except where the objection is made by a person entitled to receive a copy of the notice relating to the order in question by virtue of the said paragraph 3 and such one or more of the following heads of the Table set out at the end of that paragraph, that is to say, heads (i), (ii), (iii) and (iv), as apply in the case of that order, the Secretary of State and the planning Minister acting jointly or, as the case may be, the Secretary of State may, if satisfied that in the circumstances of the case the holding of such an inquiry is unnecessary, dispense with such an inquiry.

6. After any objections to the proposed order which are not withdrawn and, where a local inquiry is held, the report of the person who held the inquiry have been considered—

(a) in the case of an order proposed to be made by the Secretary of State, by the Secretary of State and the planning Minister acting jointly, or

(a) 1937 c. 28.
(e) 1963 c. 38.

(b) 1961 c. 64.
(f) 1966 c. 28.

(c) 1962 c. 46.
(g) 1968 c. 73.

(d) 1962 c. 58.
(h) 1959 c. 25.

(b) in the case of an order made by a local highway authority and submitted to the Secretary of State, by the Secretary of State, the Secretary of State may make or confirm the order either without modification or subject to such modifications as he thinks fit.”

(2) For paragraphs 9 and 10 of the said Schedule 1 there shall be substituted the following paragraphs:—

“9.—(1) If any objection to the proposed scheme—

(a) is received by the Secretary of State from any council or authority on whom a copy of the notice is required to be served under paragraph 8 of this Schedule within the period specified in the notice in pursuance of paragraph 7 (b) of this Schedule or, if that period has been extended by a subsequent notice under paragraph 8A of this Schedule, within the period specified in the subsequent notice, or

(b) is received by the Secretary of State from any other person appearing to him to be affected within the period specified in the notice or the subsequent notice, as the case may be,

and the objection is not withdrawn, then—

(i) in the case of a scheme proposed to be made by the Secretary of State, the Secretary of State and the planning Minister acting jointly, or

(ii) in the case of a scheme made by a local highway authority and submitted to the Secretary of State, the Secretary of State,

shall, subject to sub-paragraph (2) below, cause a local inquiry to be held.

(2) Except where the objection is made by any such council or authority as aforesaid, the Secretary of State and the planning Minister acting jointly or, as the case may be, the Secretary of State may, if satisfied that in the circumstances of the case the holding of such an inquiry is unnecessary, dispense with such an inquiry.

10. After any objections to the proposed scheme which are not withdrawn and, where a local inquiry, is held, the report of the person who held the inquiry have been considered—

(a) in the case of a scheme proposed to be made by the Secretary of State, by the Secretary of State and the planning Minister acting jointly, or

(b) in the case of a scheme made by a local highway authority and submitted to the Secretary of State, by the Secretary of State,

the Secretary of State may make or confirm the scheme either without modification or subject to such modifications as he thinks fit.”

(3) At the end of the said Schedule 1 there shall be inserted as Part III the following Part:—

“PART III

SUPPLEMENTAL

12. In this Schedule ‘the planning Minister’ means the Secretary of State for the time being having general responsibility in planning matters in relation to England or Wales, as the case may be.

13. This Schedule shall have effect as if references to the Secretary of State and the planning Minister acting jointly—

(a) were references to the Secretary of State and the planning Minister acting jointly, if the planning Minister is not the one concerned as the Secretary of State; and

(b) were references to the one concerned as the Secretary of State acting alone, if he is also the planning Minister.”

2.—(1) In subsection (4) of section 14 of the Highways Act 1971(a) after the words “Secretary of State” there shall be inserted the words “or, in the case of an order or scheme proposed to be made by the Secretary of State, the Secretary of State and the planning Minister acting jointly”.

(2) In subsection (5) of the said section 14 after the words “Secretary of State”, in the first place where they occur, there shall be inserted the words “or, in the case of an order or scheme proposed to be made by the Secretary of State, the Secretary of State and the planning Minister acting jointly”.

(3) In subsection (6) of the said section 14 for the word “has”, in the first place where it occurs, there shall be substituted the words “or the Secretary of State and the planning Minister acting jointly have,” and after the words “Secretary of State”, in the second place where they occur, there shall be inserted the words “or, as the case may be, those Ministers”.

(4) In subsection (8) of the said section 14 after the words “Secretary of State”, in the third place where they occur, there shall be inserted the words “or, in the case of an order proposed to be made by the Secretary of State, the Secretary of State and the planning Minister acting jointly” and for the words “his opinion” there shall be substituted the words “his or their opinion”.

(5) After subsection (8) of the said section 14 there shall be inserted the following subsection:—

“(8A) In this section and in section 15 of this Act ‘the planning Minister’ has the same meaning as in Schedule 1 to the principal Act and references to the Secretary of State and the planning Minister acting jointly shall be construed as if they were contained in that Schedule.”

3. In section 15(2) of the Highways Act 1971 for the words from “and before” to the end there shall be substituted the words “and before the Secretary of State exercises the power, the Secretary of State or, in the case of an order or scheme proposed to be made by the Secretary of State, the Secretary of State and the planning Minister acting jointly shall consider any representations made to the Secretary of State with respect to the proposed modifications within that period.”

Functions relating to the compulsory acquisition of land for highway purposes

4. In Part II of Schedule 1 to the Acquisition of Land (Authorisation Procedure) Act 1946(b), in paragraph 7 sub-paragraph (4) shall be omitted, and after that paragraph there shall be inserted the following paragraphs:—

“7A. Paragraph 3 of this Schedule shall have effect in relation to the order with the substitution, for references to the confirming authority and to the acquiring authority, of references to the Minister, and, for references to an order submitted and to the confirmation of an order, of references to an order as prepared in draft and to the making of an order, so however that the publication and service or affixing of notices required by that paragraph shall be effected as soon as may be after the draft of the order has been prepared, and the provisions of that paragraph as to the notice thereby required shall apply subject to such modifications of the form of the notice as appear to the Minister to be requisite.

7B.—(1) If no objection is duly made by any such owner, lessee or occupier as is mentioned in paragraph 3 or if all objections so made are withdrawn, the Minister, upon being satisfied that the proper notices have been published and served, may, if he thinks fit, make the order with or without modifications.

(2) If any objection made as aforesaid is not withdrawn, then, before the Minister makes the order,—

(a) in the case of an order proposed to be made in the exercise of highway land acquisition powers, the Minister and the planning Minister acting jointly;

(a) 1971 c. 41.

(b) 1946 c. 49.

(b) in any other case, the Minister,

shall either cause a public local inquiry to be held or afford to any person by whom any objection has been duly made as aforesaid and not withdrawn an opportunity of appearing before and being heard by a person appointed by them or him for the purpose.

(3) After the objection and the report of the person who held the inquiry or the person appointed as aforesaid have been considered—

(a) in the case of an order proposed to be made in the exercise of highway land acquisition powers, by the Minister and the planning Minister acting jointly ;

(b) in any other case, by the Minister,

the Minister may make the order either with or without modifications.

(4) If any person by whom an objection has been made avails himself of the opportunity of being heard, the Minister and the planning Minister acting jointly or, as the case may be, the Minister shall afford to any persons to whom it appears to them or him expedient to afford it an opportunity of being heard on the same occasion.

(5) Notwithstanding anything in sub-paragraphs (2) and (4) above, the Minister and the planning Minister acting jointly or, as the case may be, the Minister may require any person who has made an objection to state in writing the grounds thereof, and may, if satisfied that the objection relates exclusively to matters which can be dealt with by the tribunal by which the compensation is assessed, disregard the objection for the purposes of this paragraph.

(6) In this paragraph “highway land acquisition powers” has the same meaning as in the Highways Act 1971 and “the planning Minister” means the Secretary of State for the time being having general responsibility in planning matters in relation to England or Wales, as the case may be.

(7) This paragraph shall have effect as if references to the Minister and the planning Minister acting jointly—

(a) were references to the Minister and the planning Minister acting jointly, if the planning Minister is not the one concerned as the Minister ; or

(b) were references to the one concerned as the Minister acting alone, if he is also the planning Minister.

7C. Paragraphs 5 and 6 of this Schedule shall have effect in relation to the order with the substitution, for references to the confirming authority and to the acquiring authority, of references to the Minister, and, for references to an order submitted and to the confirmation of an order, of references to an order as prepared in draft and to the making of an order.”

5.—(1) In subsection (1) of section 54 of the Highways Act 1971 after the words “Secretary of State”, in the second place where they occur, there shall be inserted the words “or, in the case of a compulsory purchase order proposed to be made by the Secretary of State, the Secretary of State and the planning Minister acting jointly” and for the words “his opinion” there shall be substituted the words “his or their opinion”.

(2) In subsection (2) of the said section 54 for the words “the Secretary of State”, in the second place where they occur, there shall be substituted the words “or by the Secretary of State and the planning Minister acting jointly, the Secretary of State or, as the case may be, those Ministers”.

(3) In subsection (3) of the said section 54 for the word “has”, in the first place where it occurs, there shall be substituted the words “or the Secretary of State and the planning Minister acting jointly have” and after the words “Secretary of State”, in the second place where they occur, there shall be inserted the words “or, as the case may be, those Ministers”.

(4) At the end of the said section 54 there shall be inserted the following subsection—

“(4) In this section ‘the planning Minister’ has the same meaning as in paragraph 7B of Schedule 1 to the Act of 1946 and references to the Secretary of State and the planning Minister acting jointly shall be construed as if they were references to the Minister and the planning Minister acting jointly and were contained in that paragraph.”

6. In section 55(2) of the Highways Act 1971 for the words “paragraph 7(4)” there shall be substituted the words “paragraph 7C”.

Supplemental

7.—(1) Nothing in this Schedule shall affect the validity of anything done by or in relation to the Secretary of State before the coming into operation of this Order; and anything which at the coming into operation of this Order is in the process of being done by or in relation to the Secretary of State may, if it relates to functions which by virtue of any amendment made by this Schedule are to be exercised by the Secretary of State and the planning Minister acting jointly, be continued by or in relation to the Secretary of State acting jointly with that Minister.

(2) Any instrument 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 amendments made by this Schedule, as if any reference to the Secretary of State, and any reference which includes such a reference, were or included a reference to the Secretary of State and the planning Minister acting jointly.

Article 6(1).

SCHEDULE 3

CONSEQUENTIAL AMENDMENTS ETC.

Enactments relating to statutory undertakers and their “appropriate Ministers”

1. In section 15(1) of the Water Act 1948(a) after the definition of “statutory undertakers” there shall be inserted the following definition:—

“‘appropriate Minister’ means—

(a) in relation to statutory undertakers carrying on any railway, light railway, tramway, road transport, dock, harbour or pier undertaking, the Secretary of State for Transport;

(b) in relation to statutory undertakers carrying on an undertaking for the supply of electricity, gas or hydraulic power, the Secretary of State for Energy;

(c) in relation to statutory undertakers carrying on any lighthouse undertaking, the Secretary of State for Trade;

(d) in relation to statutory undertakers, being statutory water undertakers, in the application of this Act to Wales, the Secretary of State for Wales; and

(e) in relation to any other statutory undertakers, the Secretary of State for the Environment.”

2.—(1) In section 51(1) of the Opencast Coal Act 1958(b) after the definition of “agricultural land” there shall be inserted the following definition:—

“‘appropriate Minister’ means—

(a) in relation to statutory undertakers carrying on any railway, light railway, tramway, road transport, dock, harbour or pier undertaking, the Secretary of State for Transport;

(b) in relation to statutory undertakers carrying on an undertaking for the supply of electricity, gas or hydraulic power, the Secretary of State for Energy;

(c) in relation to the Civil Aviation Authority or statutory undertakers carrying on any lighthouse undertaking, the Secretary of State for Trade;

(a) 1948 c. 22. (b) 1958 c. 69.

- (d) in relation to the Post Office, the Secretary of State for Industry ;
- (e) in relation to any drainage authority, the Minister of Agriculture, Fisheries and Food ;
- (f) in relation to statutory undertakers carrying on an undertaking for the supply of water, in the application of this Act to Wales, the Secretary of State for Wales ; and
- (g) in all other cases, the Secretary of State for the Environment.”
- (2) In section 52(2) of the Opencast Coal Act 1958 after the definition of “agricultural land” there shall be inserted the following definition:—
- “ ‘appropriate Minister’ means—
- (a) in relation to statutory undertakers carrying on any railway, light railway, tramway, road transport, dock, harbour or pier undertaking, the Secretary of State for Transport ;
- (b) in relation to statutory undertakers carrying on an undertaking for the supply of gas or hydraulic power, the Secretary of State for Energy ;
- (c) in relation to the Civil Aviation Authority or statutory undertakers carrying on any lighthouse undertaking, the Secretary of State for Trade ;
- (d) in relation to the Post Office, the Secretary of State for Industry ;
- (e) in relation to statutory undertakers carrying on an undertaking for the supply of electricity or water, the Secretary of State for Scotland ; and
- (f) in all other cases, the Secretary of State for the Environment.”
- 3.—(1) In section 54(1) of the New Towns Act 1965(a) after the definition of “acquiring authority” there shall be inserted the following definition:—
- “ ‘the appropriate Minister’ means—
- (a) in relation to statutory undertakers carrying on any railway, light railway, tramway, road transport, dock, harbour or pier undertaking, the Secretary of State for Transport ;
- (b) in relation to statutory undertakers carrying on an undertaking for the supply of electricity, gas or hydraulic power, the Secretary of State for Energy ;
- (c) in relation to the British Airports Authority or the Civil Aviation Authority or statutory undertakers carrying on any lighthouse undertaking, the Secretary of State for Trade ;
- (d) in relation to the Post Office, the Secretary of State for Industry ;
- (e) in relation to statutory undertakers carrying on an undertaking for the supply of water, in the application of this Act to Wales, the Secretary of State for Wales ; and
- (f) in relation to any other statutory undertakers, the Secretary of State for the Environment.”
- (2) In section 47(1) of the New Towns (Scotland) Act 1968(b) after the definition of “the Act of 1845” there shall be inserted the following definition:—
- “ ‘the appropriate Minister’ means—
- (a) in relation to statutory undertakers carrying on any railway, light railway, tramway, road transport, dock, harbour or pier undertaking, the Secretary of State for Transport ;
- (b) in relation to statutory undertakers carrying on an undertaking for the supply of gas or hydraulic power, the Secretary of State for Energy ;
- (c) in relation to the British Airports Authority or the Civil Aviation Authority or statutory undertakers carrying on any lighthouse undertaking, the Secretary of State for Trade ;
- (d) in relation to the Post Office, the Secretary of State for Industry ;
- (e) in relation to statutory undertakers carrying on an undertaking for the supply of electricity or water, the Secretary of State for Scotland ; and
- (f) in relation to any other statutory undertakers, the Secretary of State for the Environment.”

4.—(1) For section 224(1) of the Town and Country Planning Act 1971(a) there shall be substituted the following subsection:—

“(1) In this Act ‘the appropriate Minister’ means—

(a) in relation to statutory undertakers carrying on any railway, light railway, tramway, road transport, dock, harbour or pier undertaking, the Secretary of State for Transport;

(b) in relation to statutory undertakers carrying on an undertaking for the supply of electricity, gas or hydraulic power, the Secretary of State for Energy;

(c) in relation to the British Airports Authority or the Civil Aviation Authority or statutory undertakers carrying on any lighthouse undertaking, the Secretary of State for Trade;

(d) in relation to the Post Office, the Secretary of State for Industry;

(e) in relation to statutory undertakers carrying on an undertaking for the supply of water, in the application of this Act to Wales, the Secretary of State for Wales; and

(f) in relation to any other statutory undertakers, the Secretary of State for the Environment.”

(2) For section 213(1) of the Town and Country Planning (Scotland) Act 1972(b) there shall be substituted the following subsection:—

“(1) In this Act ‘the appropriate Minister’ means—

(a) in relation to statutory undertakers carrying on any railway, light railway, tramway, road transport, dock, harbour or pier undertaking, the Secretary of State for Transport;

(b) in relation to statutory undertakers carrying on an undertaking for the supply of gas or hydraulic power, the Secretary of State for Energy;

(c) in relation to the British Airports Authority or the Civil Aviation Authority or statutory undertakers carrying on any lighthouse undertaking, the Secretary of State for Trade;

(d) in relation to the Post Office, the Secretary of State for Industry;

(e) in relation to statutory undertakers carrying on an undertaking for the supply of electricity or water, the Secretary of State for Scotland; and

(f) in relation to any other statutory undertakers, the Secretary of State for the Environment.”

(3) The said sections 224(1) and 213(1) as substituted by sub-paragraphs (1) and (2) above shall apply in relation to any enactment applying provisions of the said Acts of 1971 and 1972, and to any other enactment or instrument in so far as the meaning therein of “appropriate Minister” depends on its meaning in those Acts, as they apply in relation to those Acts.

5. In the Schedule to the Greater London Council (General Powers) Act 1976(c) for the second entry in the Table there shall be substituted the following entries:—

| | |
|--|---------------------------------------|
| “A building owned by a person authorised by or in pursuance of any enactment to carry on any railway, road transport, dock or harbour undertaking. | The Secretary of State for Transport. |
|--|---------------------------------------|

| | |
|---|--|
| A building owned by a person authorised by or in pursuance of any enactment to carry on any canal or inland navigation undertaking. | The Secretary of State for the Environment.” |
|---|--|

(a) 1971 c. 78.

(b) 1972 c. 52.

(c) 1976 c. xxvi.

Other enactments

6. In section 86(6A) of the Transport Act 1962(a) for the words from “the Secretary of State for the Environment” to the end there shall be substituted the words “the Secretary of State for Scotland acting jointly with—

- (a) in relation to the British Waterways Board, the Secretary of State for the Environment; and
- (b) in relation to any other Board, the Secretary of State for Transport”.

7.—(1) In section 82(9) of the Water Resources Act 1963(b) for the words “the Minister of Transport” (as originally enacted) there shall be substituted the words “the appropriate Minister” and after that subsection there shall be inserted the following subsection:—

“(10) In this section and in Schedule 10 to this Act ‘the appropriate Minister’—

(a) in relation to functions or property of a navigation authority, means the Secretary of State for the Environment; and

(b) in relation to functions or property of a conservancy authority or harbour authority, means the Secretary of State for Transport.”

(2) In section 91(3)(a) of the said Act of 1963 for the words “the Minister and the Minister of Transport” (as originally enacted) there shall be substituted the words “the appropriate Minister or Ministers”.

(3) In section 106(4) of the said Act of 1963, for the words from “‘the Ministers’” to the end there shall be substituted the words “the Secretary of State for the Environment and the Minister of Agriculture, Fisheries and Food shall act jointly with the Secretary of State for Transport”.

(4) In section 108(8) of the said Act of 1963 for the words from “the Ministers, the Minister of Agriculture, Fisheries and Food” to the end there shall be substituted the words “the appropriate Minister or Ministers and the Minister of Agriculture, Fisheries and Food acting jointly”.

(5) In section 109(1) of the said Act of 1963 for the words “the Minister of Transport” (as originally enacted) there shall be substituted the words “the Secretary of State for Transport”.

(6) In section 111(2) of the said Act of 1963 for the words “the Minister of Transport” (as originally enacted) there shall be substituted the words “the Secretary of State for Transport”.

(7) In section 135(2) of the said Act of 1963 for the words “the three Ministers mentioned in section 1(2) of this Act” (as originally enacted) there shall be substituted the words “the Ministers (including the Secretary of State for Transport)” and for paragraph (c) and the word “and” immediately preceding that paragraph there shall be substituted the following paragraphs:—

“(bb) the Secretary of State for the Environment shall be taken to be concerned with functions relating to navigation or functions of navigation authorities;

(c) the Secretary of State for Transport shall be taken to be concerned with functions relating to functions of harbour authorities or conservancy authorities;”.

(8) In paragraph 8 of Schedule 10 to the said Act of 1963 for the words “the Minister of Transport” (as originally enacted) there shall be substituted the words “the appropriate Minister”.

8. For section 137(7) of the Transport Act 1968(a) there shall be substituted the following subsection:—

“(7) In this section ‘the Minister’—

(a) in relation to the British Waterways Board, means the Secretary of State for the Environment;

(b) in relation to the Scottish Group, means the Secretary of State for Scotland; and

(c) in relation to any other authority, means the Secretary of State for Transport.”

9. In Schedule 4 to the Road Traffic Act 1972(b), in column 5 of the entry relating to section 22 of that Act for the words “the Secretary of State for the Environment” there shall be substituted the words “the Secretary of State for Transport, the Secretary of State for Wales”.

Article 6(2).

SCHEDULE 4

REPEALS

| Enactment or instrument | Extent of repeal |
|--|---|
| The Post Office Act 1969(c) | In Schedule 4, in paragraph 93(2), sub-paragraphs (f), (l), (m), (n), (o), (p), (s) and (t). |
| The Civil Aviation Act 1971(d) | In Schedule 5, in paragraph 6, sub-paragraphs (d), (g), (h), (i), (j), (k), (n) and (o). |
| The Secretary of State for the Environment Order 1970(e) | In Schedule 3, paragraph 1(4), in paragraph 6(1) and (2) the words from “and for the purposes of that Act” to the end and paragraph 9(2). |
| The Secretary of State (New Departments) Order 1974(f) | In Schedule 1, the entries relating to section 224(1)(a) and (b) of the Town and Country Planning Act 1971, section 213(1)(a) and (b) of the Town and Country Planning (Scotland) Act 1972 and paragraphs 1(4), 6(1)(i) and (ii), 6(2)(i) and (ii) and 9(2)(b) of Schedule 3 to the Secretary of State for the Environment Order 1970. In Schedule 2, paragraphs 2, 3 and 6. |

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order makes provision consequent on the establishment of the Department of Transport and the conferment on the Secretary of State for Transport of functions in relation to highways, road traffic, road and rail transport, ports, docks and harbours, and other matters. It provides for the transfer from the Secretary of State for the Environment to the Secretary of State for Transport of—

- (i) functions under certain specified Acts,
- (ii) functions under various instruments and local Acts, and

(a) 1968 c. 73.

(b) 1972 c. 20.

(c) 1969 c. 48.

(d) 1971 c. 75.

(e) S.I. 1970/1681 (1970 III, p. 5551).

(f) S.I. 1974/692 (1974 I, p. 2711).

(iii) property, rights and liabilities,
all of which relate to the functions conferred on the Secretary of State for Transport on the establishment of his Department (Articles 1 and 2).

The Order also provides (Article 3 and Schedule 2) for certain functions of the Secretary of State in relation to highway schemes and orders to be exercised jointly with the planning Minister (that is to say the Secretary of State for the time being having general responsibility in planning matters).

Supplemental, consequential and ancillary provisions are contained in Articles 4 to 7 and Schedules 3 and 4.

SI 1976/1775
ISBN 0-11-061775-4



780110 617756