
STATUTORY INSTRUMENTS

2006 No. 1926

MINISTERS OF THE CROWN

The Secretary of State for Communities
and Local Government Order 2006

<i>Made</i>	- - - -	<i>19th July 2006</i>
<i>Laid before Parliament</i>		<i>31st July 2006</i>
<i>Coming into force</i>	- -	<i>21st August 2006</i>

At the Court at Buckingham Palace, the 19th day of July 2006

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(1), is pleased, by and with the advice of Her Privy Council, to order, and it is ordered, as follows:

Citation and commencement

1.—(1) This Order may be cited as the Secretary of State for Communities and Local Government Order 2006.

(2) This Order comes into force on 21st August 2006.

Interpretation

2.—(1) In this Order “instrument”, without prejudice to the generality of that expression, includes in particular Royal Charters, Royal Warrants, Orders in Council, Letters Patent, judgments, decrees, orders, rules, regulations, schemes, bye-laws, awards, contracts and other agreements, memoranda and articles of association, certificates, deeds and other documents.

(2) References in this Order to the functions of a Minister under an enactment include references to the functions of that Minister under an instrument having effect under that enactment.

Incorporation of the Secretary of State for Communities and Local Government

3.—(1) The person who at the coming into force of this Order is the Secretary of State for Communities and Local Government and any successor to that person is by that name a corporation sole.

(2) The corporate seal of the Secretary of State for Communities and Local Government—

- (a) is to be authenticated by the signature of a Secretary of State or a person authorised by a Secretary of State to act in that behalf, and
- (b) is to be officially and judicially noticed.

(3) Every document purporting to be an instrument made or issued by the Secretary of State for Communities and Local Government and to be—

- (a) sealed with the corporate seal of that Secretary of State authenticated in the manner provided for by paragraph (2), or
- (b) signed or executed by a person authorised by a Secretary of State to act in that behalf,

is to be received in evidence and to 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 Communities and Local Government that any instrument purporting to be made or issued by—

- (a) the Secretary of State for Communities and Local Government,
- (b) the First Secretary of State,
- (c) the Secretary of State for Transport, Local Government and the Regions,
- (d) the Secretary of State for Environment, Transport and the Regions, or
- (e) the Secretary of State for the Environment,

was so made or issued is conclusive evidence of that fact.

(5) The Documentary Evidence Act 1868⁽²⁾ applies in relation to the Secretary of State for Communities and Local Government—

- (a) as if references to regulations and orders included references to any document, and
- (b) as if the officers mentioned in column 2 of the Schedule included any officer authorised to act on behalf of the Secretary of State.

Transfer of functions from First Secretary of State

4.—(1) The following functions of the First Secretary of State are transferred to the Secretary of State for Communities and Local Government—

- (a) his functions under section 86(6A) of the Transport Act 1962⁽³⁾;
- (b) his functions under sections 228 and 245(1)(b) of the Town and Country Planning Act 1990⁽⁴⁾;
- (c) his functions under the Town and Country Planning Act 1990 as the appropriate Minister by virtue of section 265(1)(d) of that Act.

(2) Any function of the First Secretary of State by virtue of section 329(5) of the Highways Act 1980⁽⁵⁾ is transferred to the Secretary of State.

(2) 1868 c 37.

(3) 1962 c. 46.

(4) 1990 c. 8.

(5) 1980 c. 66; the Transfer of Functions (Transport) Order 1981, S.I. 1981/238, art. 2, transferred certain functions of the Minister of Transport to the Secretary of State for Transport and the remainder to the Secretary of State; by art. 3(1) of that Order, s. 329(5) was amended to refer to the Secretary of State for Transport; any function of the Secretary of State for Transport

Transfer of property etc. from First Secretary of State to Secretary of State for Communities and Local Government

- 5.—(1) There are transferred to the Secretary of State for Communities and Local Government—
- (a) all immovable property to which the First Secretary of State is entitled at the coming into force of this Order, and all rights and liabilities to which that Secretary of State is entitled or subject at that time in connection with that property;
 - (b) all other property, rights and liabilities to which the First Secretary of State is entitled or subject at the coming into force of this Order in connection with—
 - (i) the functions transferred by article 4(1), or
 - (ii) the functions that were immediately before 5th May 2006 entrusted to the First Secretary of State and that have been entrusted to the Secretary of State for Communities and Local Government before the making of this Order.
- (2) Paragraph (1)(a) does not apply to property, rights or liabilities transferred by article 6.

Transfer of property etc. from First Secretary of State to Secretary of State for Transport

6. All property, rights and liabilities to which the First Secretary of State is entitled or subject at the coming into force of this Order in connection with functions transferred by article 4(2) are transferred to the Secretary of State for Transport.

Transfer of rights and liabilities from Secretary of State for Trade and Industry to Secretary of State for Communities and Local Government

7.—(1) All rights and liabilities to which the Secretary of State for Trade and Industry is entitled or subject at the coming into force of this Order in connection with the equality functions are transferred to the Secretary of State for Communities and Local Government.

(2) In this Order “the equality functions” means the functions under the enactments listed in paragraph (3) that were immediately before 5th May 2006 entrusted to the Secretary of State for Trade and Industry and that have been entrusted to the Secretary of State for Communities and Local Government before the making of this Order.

- (3) The enactments are—
- (a) the Equal Pay Act 1970⁽⁶⁾;
 - (b) the Sex Discrimination Act 1975⁽⁷⁾;
 - (c) Part 1 of the Equality Act 2006⁽⁸⁾.

Supplementary

- 8.—(1) This article applies to—
- (a) the functions mentioned in article 5(1)(b)(ii);
 - (b) anything transferred by article 4(1) or 5;
 - (c) anything transferred by article 4(2) or 6;

under s. 329(5) was transferred by the Secretary of State for the Environment, Transport and the Regions Order 1997, S.I. 1997/2971, art. 3(1) to the Secretary of State for Environment, Transport and the Regions, then by the Secretaries of State for Transport, Local Government and the Regions and for Environment, Food and Rural Affairs Order 2001, S.I. 2001/2568, art. 7(1) to the Secretary of State for Transport, Local Government and the Regions, and then by the Transfer of Functions (Transport, Local Government and the Regions) Order 2002, S.I. 2002/2626, art. 14 to the First Secretary of State.

(6) 1970 c. 41.
(7) 1975 c. 65.
(8) 2006 c. 3.

- (d) the equality functions (defined by article 7(2));
 - (e) anything transferred by article 7.
- (2) In this article—
- (a) “the transferor” means—
 - (i) in relation to anything within paragraph (1)(a), (b) or (c), the First Secretary of State;
 - (ii) in relation to anything within paragraph (1)(d) or (e), the Secretary of State for Trade and Industry;
 - (b) “the transferee” means—
 - (i) in relation to anything within paragraph (1)(a), (b), (d) or (e), the Secretary of State for Communities and Local Government;
 - (ii) in relation to anything within paragraph (1)(c), the Secretary of State for Transport.
- (3) This Order does not affect the validity of anything done (or having effect as if done) by or in relation to the transferor before the coming into force of this Order.
- (4) Anything (including legal proceedings) which, at the coming into force of this Order, is in the process of being done by or in relation to the transferor may, so far as it relates to anything to which this article applies, be continued by or in relation to the transferee.
- (5) Anything done (or having effect as if done) by or in relation to the transferor in connection with anything to which this article applies has effect, so far as necessary for continuing its effect after the coming into force of this Order, as if done by or in relation to the transferee.
- (6) Documents or forms printed for use in connection with functions to which this article applies may be used in connection with those functions even though they contain, or are to be read as containing, references to the transferor, or to the department or an officer of the transferor; and for the purposes of the use of any such documents or forms after the coming into force of this Order, those references are to be read as references to the transferee, or to the department or an officer of the transferee (as appropriate).
- (7) Any enactment or instrument passed or made before the coming into force of this Order has effect, so far as is necessary for the purposes of or in consequence of the transfer or entrusting to the transferee of anything to which this article applies, as if references to (and references which are to be read as references to) the transferor, or to the department or an officer of the transferor, were or included references to the transferee, or to the department or an officer of the transferee (as appropriate).

Consequential amendments

9. The Schedule (consequential amendments) has effect.

A.K. Galloway
Clerk of the Privy Council

SCHEDULE

Article 9

CONSEQUENTIAL AMENDMENTS

Transport Act 1962 (c. 46)

1. In section 86(6A) of the Transport Act 1962(9), for “the First Secretary of State” substitute “the Secretary of State for Communities and Local Government”.

Parliamentary Commissioner Act 1967 (c. 13)

2. In Schedule 2 to the Parliamentary Commissioner Act 1967(10), in the appropriate place insert “Department for Communities and Local Government”.

Town and Country Planning Act 1990 (c. 8)

3.—(1) The Town and Country Planning Act 1990 is amended as follows.

(2) In section 228(11), for “First Secretary of State” in both places substitute “Secretary of State for Communities and Local Government”.

(3) In section 245(1)(12), for “the First Secretary of State” substitute “the Secretary of State for Communities and Local Government”.

(4) In section 265(1)(13) for paragraph (d) substitute—

“(d) in relation to any other statutory undertakers, the Secretary of State for Communities and Local Government.”

(5) In paragraph 8(2) of Schedule 6(14), for “the Office of the Deputy Prime Minister” substitute “the Department for Communities and Local Government”.

(9) s. 86(6A) was inserted by the Secretary of State for the Environment Order 1970, S.I. 1970/1681, Sched.3, para.20(2); and amended by the Secretary of State for Transport Order 1976, S.I. 1976/1775, art.6(1), Sched.3, para.6, the Secretary of State for the Environment, Transport and the Regions Order 1997, S.I. 1997/2971, art.6(1), Sched., para.1, the Secretaries of State for Transport, Local Government and the Regions and for Environment, Food and Rural Affairs Order 2001, S.I. 2001/2568, art.16, Sched., para.1. and the Transfer of Functions (Transport, Local Government and the Regions) Order 2002, S.I. 2002/2626, art. 20, Sched. 2, para. 2.

(10) Sched. 2 was substituted by the Parliamentary Commissioner (No. 2) Order 2005, S.I. 2005/3430, art. 2, Sched.

(11) s.228 was amended by the Secretary of State for the Environment, Transport and the Regions Order 1997, S.I. 1997/2971, art.6(1), Sched., paras.11 and 12, the Secretaries of State for Transport, Local Government and the Regions and for Environment, Food and Rural Affairs Order 2001, S.I. 2001/2568, art.16, Sched., para.9 and the Transfer of Functions (Transport, Local Government and the Regions) Order 2002, S.I. 2002/2626, art. 20, Sched. 2, para. 15(2).

(12) s.245(1) was amended by the Secretary of State for the Environment, Transport and the Regions Order 1997, S.I. 1997/2971, art.6(1), Sched., paras.11 and 13, the Secretaries of State for Transport, Local Government and the Regions and for Environment, Food and Rural Affairs Order 2001, S.I. 2001/2568, art.16, Sched., para.9 and the Transfer of Functions (Transport, Local Government and the Regions) Order 2002, S.I. 2002/2626, art. 20, Sched. 2, para. 15(3).

(13) In s.265(1), para.(a) was repealed and para.(d) amended by the Secretary of State for the Environment, Transport and the Regions Order 1997, S.I. 1997/2971, art.6(1), Sched., paras.11 and 14, para.(d) was further amended by the Secretaries of State for Transport, Local Government and the Regions and for Environment, Food and Rural Affairs Order 2001, S.I. 2001/2568, art.16, Sched., para.9, and paragraph (a) was inserted and paragraph (d) substituted by the Transfer of Functions (Transport, Local Government and the Regions) Order 2002, S.I. 2002/2626, art. 20, Sched. 2, para. 15(4).

(14) para.8(2) was amended by the Secretary of State for the Environment, Transport and the Regions Order 1997, S.I. 1997/2971, art.6(1), Sched., paras.11 and 15, the Secretaries of State for Transport, Local Government and the Regions and for Environment, Food and Rural Affairs Order 2001, S.I. 2001/2568, art.16, Sched., para.9 and the Transfer of Functions (Transport, Local Government and the Regions) Order 2002, S.I. 2002/2626, art. 20, Sched. 2, para. 15(5).

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Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9)

4. In paragraph 7(2) of Schedule 3 to the Planning (Listed Buildings and Conservation Areas) Act 1990(15), for “the Office of the Deputy Prime Minister” substitute “the Department for Communities and Local Government”.

Planning (Hazardous Substances) Act 1990 (c. 10)

5. In paragraph 7(2) of the Schedule to the Planning (Hazardous Substances) Act 1990(16), for “the Office of the Deputy Prime Minister” substitute “the Department for Communities and Local Government”.

Transport and Works Act 1992 (c. 42)

6. In section 23(10) of the Transport and Works Act 1992(17), for “the Office of the Deputy Prime Minister” in both places substitute “the Department for Communities and Local Government”.

Regulation of Investigatory Powers Act 2000 (c. 23)

7. In Part 1 of Schedule 1 to the Regulation of Investigatory Powers Act 2000(18), before paragraph 10 insert—

“9A. The Department for Communities and Local Government”.

Domestic Violence, Crime and Victims Act 2004 (c. 28)

8. In Schedule 9 to the Domestic Violence, Crime and Victims Act 2004, before paragraph 1 insert—

“1ZA. The Department for Communities and Local Government.”

Disability Discrimination (Public Authorities) (Statutory Duties) Regulations 2005 (S.I.2005/2966)

9.—(1) Schedule 2 to the Disability Discrimination (Public Authorities) (Statutory Duties) Regulations 2005 is amended as follows.

(2) Omit “The First Secretary of State”.

(3) In the appropriate place insert—

“The Secretary of State for Communities and Local Government”.

(15) para.7(2) was amended by the Secretary of State for the Environment, Transport and the Regions Order 1997, S.I. 1997/2971, art.6(1), Sched., para.16, the Secretaries of State for Transport, Local Government and the Regions and for Environment, Food and Rural Affairs Order 2001, S.I. 2001/2568, art.16, Sched., para.10 and the Transfer of Functions (Transport, Local Government and the Regions) Order 2002, S.I. 2002/2626, art. 20, Sched. 2, para. 16.

(16) para.7(2) was amended by the Secretary of State for the Environment, Transport and the Regions Order 1997, S.I. 1997/2971, art.6(1), Sched., para.17, the Secretaries of State for Transport, Local Government and the Regions and for Environment, Food and Rural Affairs Order 2001, S.I. 2001/2568, art.16, Sched., para.11 and the Transfer of Functions (Transport, Local Government and the Regions) Order 2002, S.I. 2002/2626, art. 20, Sched. 2, para. 17.

(17) s.23(10) was amended and para.(a) substituted by the Secretary of State for the Environment, Transport and the Regions Order 1997, S.I. 1997/2971, art.6(1), Sched., para.23; s.23(10) was further amended by the Secretaries of State for Transport, Local Government and the Regions and for Environment, Food and Rural Affairs Order 2001, S.I. 2001/2568, art.16, Sched., para.14 and the Transfer of Functions (Transport, Local Government and the Regions) Order 2002, S.I. 2002/2626, art. 20, Sched. 2, para. 20.

(18) Sched.1 was amended by the Secretaries of State for Transport, Local Government and the Regions and for Environment, Food and Rural Affairs Order 2001, S.I. 2001/2568, art.16, Sched., para.18 and the Transfer of Functions (Transport, Local Government and the Regions) Order 2002, S.I. 2002/2626, art. 20, Sched. 2, para. 24.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order in Council makes provision in connection with the office of Secretary of State for Communities and Local Government and for transferring functions, property, rights and liabilities in consequence of ministerial changes.

Article 3 incorporates the Secretary of State for Communities and Local Government as a corporation sole. It also provides for authentication of the corporate seal, the making of instruments by that Secretary of State and related matters.

Article 4(1) transfers functions of the First Secretary of State to the Secretary of State for Communities and Local Government. The functions are those under section 86(6A) of the Transport Act 1962 and sections 228 and 245(1)(b) of the Town and Country Planning Act 1990 and his functions under that Act as “appropriate Minister”. Article 4(2) transfers to the Secretary of State any function of the First Secretary of State by virtue of section 329(5) of the Highways Act 1980.

Articles 5 to 7 provide for the transfer of immovable property of the First Secretary of State, with associated rights and liabilities, and of other property rights and liabilities connected with functions transferred by article 4 or functions which have been entrusted to the Secretary of State for Communities and Local Government.

Article 8 makes supplementary provision for continuity in relation to functions, property, rights or liabilities referred to in articles 4 to 7.

Article 9 and the Schedule amend enactments in consequence of the earlier provisions of this Order. Nothing in this Order alters the functions of the National Assembly for Wales, the Scottish Ministers or the devolved authorities in Northern Ireland.