

**EXPLANATORY MEMORANDUM TO**  
**THE NATIONAL ASSEMBLY FOR WALES (TRANSFER OF STAFF TO**  
**ASSEMBLY COMMISSION SCHEME) ORDER 2007**

**2007 No. 1169**

1. This explanatory memorandum has been prepared by the Wales Office and is laid before Parliament by Command of Her Majesty.

2. **Description**

The Order provides for the transfer of listed members of staff of the National Assembly for Wales as constituted by the Government of Wales Act 1998 (“the current Assembly”) to the employment of the new National Assembly for Wales Commission (“the Commission”). It is necessary given the changes in the structure of the devolution settlement in Wales under the Government of Wales Act 2006 (GOWA 2006) to ensure that those members of staff of the current Assembly who work in the unit of staff known as the Assembly Parliamentary Service transfer to the employment of the Commission. The Assembly Parliamentary Service provides staff and services to the ‘parliamentary’ arm of the current Assembly.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

None

4. **Legislative Background**

- 4.1 At present, the current Assembly is a single corporate body which exercises its functions on behalf of the Crown, and therefore, its employees are members of the Home Civil Service (i.e. they are civil servants).
- 4.2 Under GOWA 2006, there will be a separate legislature (the National Assembly for Wales) and executive (the Welsh Assembly Government, including the Welsh Ministers) together with the Commission (a corporate body) that will provide property, staff and services for the new Assembly. This separation, and the establishment of the Commission, will occur following the Assembly elections in May 2007.
- 4.3 In accordance with the provisions of GOWA 2006, any member of staff of the current Assembly, upon separation, will become a member of staff of the Welsh Assembly Government unless an Order is made under paragraph 43(2) of Schedule 11 to GOWA 2006 providing for the transfer of a member of staff to the Commission. The Order sets

out the scheme under which this transfer will occur and the Secretary of State must produce a list of those members of staff whose contracts of employment will transfer to the Commission together with rights, liabilities, powers and duties of the current Assembly under or in connection with such contracts. As the Commission does not exercise functions on behalf of the Crown, this transfer of employment to the Commission will mean that the listed members of staff will no longer be civil servants. Those members of staff who are currently members of the Home Civil Service and who, under GOWA 2006, become members of staff of the Welsh Assembly Government retain their civil service status.

- 4.4 The Order should be read in conjunction with paragraph 43 of Schedule 11 to GOWA 2006 which provides that the transfer of employment does not break the continuity of service of the employment and that the terms and conditions of service with the Commission must be no less favourable to the employee than those on which she was employed immediately prior to the transfer. It also provides listed employees with a right of objection to the transfer.
- 4.5 In accordance with paragraph 43(10) of Schedule 11 to GOWA 2006, the Secretary of State has consulted the current Assembly.

## **5. Territorial Extent and Application**

The instrument extends to the United Kingdom, although its application is principally in relation to Wales; because the Order implements paragraph 43(2) of Schedule 11 to GOWA 2006 by making a staff transfer scheme and that paragraph, like most of GOWA 2006, extends to the United Kingdom.

## **6. European Convention on Human Rights**

The Secretary of State for Wales has made the following statement regarding Human Rights:

In my view the provisions of the National Assembly for Wales (Transfer of Staff to Assembly Commission Scheme) Order 2007 are compatible with the Convention rights

## **7. Policy background**

- 7.1 GOWA 2006 received Royal Assent on 25 July 2006. The purpose of GOWA 2006 is to make provision about the government of Wales.
- 7.2 The Act effects the formal separation between the executive and legislative arms of the current Assembly; it establishes the Welsh Assembly Government (made up of the First Minister, Welsh Ministers and their deputies and the Counsel General) as an entity separate from, but accountable to, the new Assembly. Most of the statutory functions of the current Assembly will become functions of the Welsh Ministers.

- 7.3 The dissolution of the current Assembly and the creation of the new Assembly will take place following the election in May 2007.

*Consultation*

- 7.4 This order makes provision to deal with the transition from the current Assembly to the new arrangements under GOWA 2006, and does not contain new policy on which public consultation is required. Therefore, there has been no public consultation, however, relevant interested parties have been consulted.

**8. Impact**

A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies

**9. Contact**

Susan Olley at the Wales Office Tel: 02920 898568 or email: Susan.Olley@walesoffice.gsi.gov.uk can answer any queries regarding the instrument.