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STATUTORY INSTRUMENTS

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**2008 No. 678**

**MINISTERS OF THE CROWN**

**The Transfer of Functions (Registration) Order 2008**

<i>Made</i>	- - - -	<i>12th March 2008</i>
<i>Laid before Parliament</i>		<i>13th March 2008</i>
<i>Coming into force</i>	- -	<i>3rd April 2008</i>

At the Court at Buckingham Palace, the 12th day of March 2008

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in pursuance of section 1 of the Ministers of the Crown Act 1975(1), is pleased, by and with the advice of Her Privy Council, to order as follows:

**Citation and commencement**

- 1.—(1) This Order may be cited as the Transfer of Functions (Registration) Order 2008.
- (2) This Order comes into force on 3rd April 2008.

**Interpretation**

2. In this Order “instrument” 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.

**Transfer of functions**

3.—(1) The functions of the Chancellor of the Exchequer under the enactments listed in Schedule 1 are transferred to the Secretary of State.

(2) The function of the Secretary of State for the Home Department under section 9 of the Births and Deaths Registration Act 1926(2) (removal of bodies from England and Wales: regulations) is transferred to the Secretary of State.

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(1) 1975 c. 26.

(2) 1926 c. 48; the function of the Secretary of State for the Home Department under section 9 was transferred from the Secretary of State to the Secretary of State for the Home Department by the Secretary of State for Social Services Order 1968 (S.I. 1968/1699), Sched., Part 1.

## **Supplementary**

4.—(1) All rights and liabilities to which the Chancellor is entitled or subject immediately before the coming into force of this Order in connection with any transferred function are transferred to the Home Secretary.

(2) This Order does not affect the validity of anything done by or in relation to the Chancellor or the Home Secretary before the coming into force of this Order.

(3) Anything which, at the coming into force of this Order, is in the process of being done by or in relation to the Chancellor may, so far as it relates to any transferred matter, be continued by or in relation to the Secretary of State or, as the case may be, the Home Secretary.

(4) Any legal proceedings to which the Chancellor is a party at the coming into force of this Order may, if they relate to any transferred matter, be continued by or against the Secretary of State or, as the case may be, the Home Secretary.

(5) Any approval, consent or direction given, or other thing done, by or in relation to the Chancellor in the exercise of any transferred function (or having effect as if so given or done) has effect, so far as necessary for continuing its effect after the coming into force of this Order, as if given or done by or in relation to the Secretary of State or, as the case may be, the Home Secretary (as well as the Chancellor).

(6) In this article—

“the Chancellor” means the Chancellor of the Exchequer,

“the Home Secretary” means the Secretary of State for the Home Department,

“transferred function” means a function of the Chancellor transferred by this Order, and

“transferred matter” means a function, right or liability of the Chancellor transferred by this Order.

## **Consequential amendments etc**

5.—(1) Schedule 2 (consequential amendments) has effect.

(2) Subject to the amendments made by Schedule 2, any enactment or instrument passed or made before the coming into force of this Order has effect, so far as necessary for the purpose of or in consequence of article 3 or 4, as if—

(a) any reference to the Chancellor of the Exchequer were or included a reference to the Secretary of State or, as the case may be, the Secretary of State for the Home Department, and

(b) any reference to the Secretary of State for the Home Department were or included a reference to the Secretary of State.

*Judith Simpson*  
Clerk of the Privy Council

SCHEDULE 1

Article 3(1)

Functions transferred from the Chancellor of the Exchequer to the Secretary of State

1. Section 5 of the Non-Parochial Registers Act 1840(3) (approval of regulations).
2. Section 7 of the Places of Worship Registration Act 1855(4) (order or direction as to printing of lists of certified places).
3. The following provisions of the Births and Deaths Registration Act 1926—
  - (a) section 9(5) (regulations as to removal of a body out of England or Wales);
  - (b) section 12(6) (approval of regulations under sections 1 and 3).
4. Section 2(2) of the Population (Statistics) Act 1938(7) (directions as to collection of information).
5. The following provisions of the Marriage Act 1949(8)—
  - (a) section 31(5E)(d)(9) (approval of regulations);
  - (b) section 31(5F) (orders as to fees);
  - (c) section 46A(1)(10) (approval of premises);
  - (d) section 58(2)(11) (direction as to keeping of certified copies);
  - (e) section 74 (approval of regulations).
6. The following provisions of the Births and Deaths Registration Act 1953(12)—
  - (a) section 28(4) (directions as to custody of registers);
  - (b) section 39 (approval of regulations).
7. The following provisions of the Registration Service Act 1953(13)—
  - (a) section 14 (approval of local registration schemes);
  - (b) section 20 (approval of regulations).

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- (3) 1840 c. 92; the function of the Secretary of State under section 5 was transferred to the Chancellor of the Exchequer by the Transfer of Functions (Registration and Statistics) Order 1996 (S.I. 1996/273), art. 3(1) and Sched. 1, para 1.
  - (4) 1855 c. 81; the function of the Secretary of State under section 7 was transferred to the Chancellor of the Exchequer by the Transfer of Functions (Registration and Statistics) Order 1996 (S.I. 1996/273), art. 3(1) and Sched. 1, para 2.
  - (5) The function under section 9 was transferred from the Minister of Health to the Secretary of State for Social Services by the Secretary of State for Social Services Order 1968 (S.I. 1968/1699), art 5(3) and Sched., Part 1, to the Secretary of State for Health by the Transfer of Functions (Health and Social Security) Order 1988 (S.I. 1988/1843), art. 2(1) and Sched. 2, Part 1 and to the Chancellor of the Exchequer by the Transfer of Functions (Registration and Statistics) Order 1996 (S.I. 1996/273), art. 3(2).
  - (6) The function under section 12 was transferred from the Minister of Health to the Secretary of State by the Secretary of State for Social Services Order 1968 (S.I. 1968/1699), art 2 and to the Chancellor of the Exchequer by the Transfer of Functions (Registration and Statistics) Order 1996 (S.I. 1996/273), art. 3(1) and Sched. 1, para 4.
  - (7) 1938 c. 12; the function of the Minister of Health under section 2 was transferred from the Minister of Health to the Secretary of State by the Secretary of State for Social Services Order 1968 (S.I. 1968/1699), art 2 and, as regards England and Wales, to the Chancellor of the Exchequer by the Transfer of Functions (Registration and Statistics) Order 1996 (S.I. 1996/273), art. 3(1) and Sched. 1, para 5 (as regards Scotland, the function was transferred to the Scottish Ministers by section 53 of the Scotland Act 1998).
  - (8) 1949 c. 76.
  - (9) Section 31(5E) and (5F) were inserted by the Immigration and Asylum Act 1999 (c. 33), s. 160(6).
  - (10) Section 46A was inserted by the Marriage Act 1994 (c. 34), s. 1(2).
  - (11) The functions under sections 58 and 74 were transferred from the Minister of Health to the Secretary of State by the Secretary of State for Social Services Order 1968 (S.I. 1968/1699), art 2 and to the Chancellor of the Exchequer by the Transfer of Functions (Registration and Statistics) Order 1996 (S.I. 1996/273), art. 3(1) and Sched. 1, para 7.
  - (12) 1953 c. 20; the functions of the Minister of Health under this Act were transferred to the Secretary of State by the Secretary of State for Social Services Order 1968 (S.I. 1968/1699), art 2 and to the Chancellor of the Exchequer by the Transfer of Functions (Registration and Statistics) Order 1996 (S.I. 1996/273), art. 3(1) and Sched. 1, para 8.
  - (13) 1953 c. 37; the functions of the Minister of Health under this Act were transferred to the Secretary of State by the Secretary of State for Social Services Order 1968 (S.I. 1968/1699), art 2 and to the Chancellor of the Exchequer by the Transfer of Functions (Registration and Statistics) Order 1996 (S.I. 1996/273), art. 3(1) and Sched. 1, para 9.

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- 8.** Section 5 of the Public Expenditure and Receipts Act 1968 (increase of fees)(**14**), so far as it relates to the enactments listed in paragraphs 1 and 2 of Schedule 3 to that Act.
- 9.** Section 18 of the Marriage (Registrar General’s Licence) Act 1970(**15**) (approval of regulations).
- 10.** Section 1 of the Industrial Diseases (Notification) Act 1981(**16**) (regulations).
- 11.** The following provisions of the Immigration and Asylum Act 1999(**17**)—
- (a) section 24(4)(a) (approval of regulations);
  - (b) section 24A(4)(a)(**18**) (approval of regulations).
- 12.** The following provisions of the Adoption and Children Act 2002(**19**)—
- (a) section 78(3) (approval of regulations);
  - (b) section 79 (approval of regulations);
  - (c) section 81(4) (approval of regulations under section 80);
  - (d) section 98(6) (approval of regulations);
  - (e) section 142(7) (approval of regulations);
  - (f) paragraphs 1(1) and 3(6)(a) of Schedule 1 (approval of regulations);
  - (g) paragraph 1 of Schedule 2 (approval of regulations).
- 13.** Paragraph 3(5) of Schedule 3 to the Gender Recognition Act 2004(**20**) (approval of regulations under paragraph 3).
- 14.** The following provisions of the Civil Partnership Act 2004(**21**)—
- (a) section 6A(1)(**22**) (approval of premises);
  - (b) section 34(1) (orders as to fees);
  - (c) section 35(1) (orders to amend the Civil Partnership Act);
  - (d) section 36(3) (approval of regulations).
- 15.** Section 13(2)(a) of the Police and Justice Act 2006 (approval of regulations).

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(14) 1968 c. 14; the functions of the Minister of Health under section 5, so far as relating to the enactments listed in paragraphs 1 and 2 of Schedule 3, were transferred to the Secretary of State by the Secretary of State for Social Services Order 1968 (S.I. 1968/1699), art 2 and, as regards England and Wales, to the Chancellor of the Exchequer by the Transfer of Functions (Registration and Statistics) Order 1996 (S.I. 1996/273), art. 3(1) and Sched. 1, para 10 (as regards Scotland, the functions were transferred to the Scottish Ministers by section 53 of the Scotland Act 1998).

(15) 1970 c. 34; the function of the Secretary of State under section 18 was transferred to the Chancellor of the Exchequer by the Transfer of Functions (Registration and Statistics) Order 1996 (S.I. 1996/273), art. 3(1) and Sched. 1, para 11.

(16) 1981 c. 25; the function of the Secretary of State under section 1 was transferred to the Chancellor of the Exchequer by the Transfer of Functions (Registration and Statistics) Order 1996 (S.I. 1996/273), art. 3(1) and Sched. 1, para 13.

(17) 1999 c. 33.

(18) Section 24A was inserted by the Civil Partnership Act 2004 (c. 33), s. 261(1) and Sched. 27, para 162.

(19) 2002 c. 38.

(20) 2004 c. 7.

(21) 2004 c. 33.

(22) Section 6A was inserted by the Civil Partnership (Amendments to Registration Provisions) Order 2005 (S.I. 2005/2000), art. 3 and Sched., para 3.

## SCHEDULE 2

Article 5(1)

### Consequential amendments

#### **Non-Parochial Registers Act 1840 (c. 92)**

1. In section 5 of the Non-Parochial Registers Act 1840 (list of registers and records), for “the Chancellor of the Exchequer” substitute “the Secretary of State”.

#### **Places of Worship Registration Act 1855 (c. 81)**

2. In section 7 of the Places of Worship Registration Act 1855 (lists of certified places), for “the Chancellor of the Exchequer” substitute “the Secretary of State”.

#### **Births and Deaths Registration Act 1926 (c. 48)**

3.—(1) The Births and Deaths Registration Act 1926 is amended as follows.

(2) In section 9 (regulations)—

- (a) for “Chancellor of the Exchequer” substitute “Secretary of State”, and
- (b) omit the words “, with the concurrence of the Secretary of State for the Home Department,”.

(3) In section 12 (definitions), in the definition of “prescribed”, for “the Chancellor of the Exchequer” substitute “the Secretary of State”.

#### **Population (Statistics) Act 1938 (c. 12)**

4. In the following provisions of the Population (Statistics) Act 1938, for “the Chancellor of the Exchequer” substitute “the Secretary of State”—

- (a) section 2(2) and (3) (collection of information etc);
- (b) section 6(a)(23) (application to Scotland).

#### **Marriage Act 1949 (c. 76)**

5.—(1) In the following provisions of the Marriage Act 1949, for “the Chancellor of the Exchequer” substitute “the Secretary of State”—

- (a) section 31(5E)(d) (approval of regulations with respect to applications to reduce 15 day period);
- (b) section 31(5F) (orders as to fees for such applications);
- (c) section 58(2) (directions as to keeping certified copies);
- (d) section 74 (approval of regulations).

(2) In the following provisions of that Act, for “Chancellor of the Exchequer” substitute “Secretary of State”—

- (a) section 46A(1) (approval of premises for solemnization of marriages);
- (b) section 46B(2)(24) (duty to secure public permitted to attend marriages).

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(23) Section 6(a) was substituted by the Transfer of Functions (Registration and Statistics) Order 1996 (S.I. 1996/273), art. 5(1) and Sched. 2, para 7(3).

(24) Section 46B was inserted by the Marriage Act 1994 (c. 34), s. 1(2).

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### **Births and Deaths Registration Act 1953 (c. 20)**

6. In section 41 of the Births and Deaths Registration Act 1953 (interpretation), in the definition of “the Minister”, for “the Chancellor of the Exchequer” substitute “the Secretary of State”.

### **Registration Service Act 1953 (c. 37)**

7. In section 21 of the Registration Service Act 1953 (interpretation), in the definition of “the Minister”, for “the Chancellor of the Exchequer” substitute “the Secretary of State”.

### **Public Expenditure and Receipts Act 1968 (c. 14)**

8. In Schedule 3 to the Public Expenditure and Receipts Act 1968 (variation of fees), in the entries in the second column, for “Chancellor of the Exchequer” substitute “Secretary of State”.

### **Marriage (Registrar General’s Licence) Act 1970 (c. 34)**

9. In section 18 of the Marriage (Registrar General’s Licence) Act 1970 (regulations), for “Chancellor of the Exchequer” substitute “Secretary of State”.

### **Industrial Diseases (Notification) Act 1981 (c. 25)**

10. In section 1 of the Industrial Diseases (Notification) Act 1981 (regulations), for “The Chancellor of the Exchequer” substitute “The Secretary of State”.

### **Immigration and Asylum Act 1999 (c. 33)**

11. In the following provisions of the Immigration and Asylum Act 1999, for “the Chancellor of the Exchequer” substitute “the Secretary of State”—

- (a) section 24(4)(a) (approval of regulations with respect to the reporting of suspicious marriages);
- (b) section 24A(4)(a) (approval of regulations with respect to the reporting of suspicious civil partnerships).

### **Adoption and Children Act 2002 (c. 38)**

12. In the following provisions of the Adoption and Children Act 2002, for “the Chancellor of the Exchequer” substitute “the Secretary of State”—

- (a) section 78(3) (searches and copies);
- (b) section 79(9) (connections between the register and birth records);
- (c) section 81(4) (Adoption Contact Register: supplementary);
- (d) section 98(6) (pre-commencement adoptions: information);
- (e) section 142(7) (supplementary and consequential provision);
- (f) paragraph 1(1) and 3(6)(a) of Schedule 1 (registration of adoptions);
- (g) paragraph 1 of Schedule 2 (disclosure of birth records by Registrar General).

### **Gender Recognition Act 2004 (c. 7)**

13. In Schedule 3 to the Gender Recognition Act 2004 (registration), in paragraph 3(5), for “the Chancellor of the Exchequer” substitute “the Secretary of State”.

### **Civil Partnership Act 2004 (c. 33)**

14. In the following provisions of the Civil Partnership Act 2004, for “Chancellor of the Exchequer” substitute “Secretary of State”—

- (a) section 6A(1) and (3) (approval of premises);
- (b) section 34(1) (orders as to fees);
- (c) section 35(1) (orders amending that Act to assimilate civil partnership provisions to those relating to civil marriage);
- (d) section 36(3) (approval of regulations).

### **Police and Justice Act 2006 (c. 48)**

15. In section 13 of the Police and Justice Act 2006 (supply of information to police etc by Registrar General), in subsection (2), for “the Chancellor of the Exchequer” substitute “the Secretary of State”.

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## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order in Council is made under section 1 of the Ministers of the Crown Act 1975.

Article 3 transfers to the Secretary of State certain statutory functions relating to the Registrar General for England and Wales.

Article 4 makes supplementary provision.

Article 5 and Schedule 2 make consequential amendments to enactments and instruments.

Nothing in this Order alters the functions of the Welsh Ministers, the Scottish Ministers or the devolved authorities in Northern Ireland.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sector is foreseen.