

2010 No. 1836

MINISTERS OF THE CROWN

The Secretary of State for Education Order 2010

Made - - - - *21st July 2010*

Laid before Parliament *28th July 2010*

Coming into force - - *18th August 2010*

At the Court at Buckingham Palace, the 21st day of July 2010

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred by 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 as follows:—

Citation and commencement

- 1.—(1) This Order may be cited as the Secretary of State for Education Order 2010.
- (2) This Order comes into force on 18th August 2010.

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, licences, authorisations, consents, approvals, contracts and other agreements, memoranda and articles of association, certificates, deeds and other documents.

Incorporation of the Secretary of State for Education

- 3.—(1) The person who at the coming into force of this Order is the Secretary of State for Education and any successor to that person is by that name a corporation sole.
- (2) The corporate seal of the Secretary of State for Education—
 - (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 Education and to be—

(a) 1975 c. 26. In relation to functions of the Lord Chancellor, section 1 was amended by the Constitutional Reform Act 2005 (c. 4), s. 20.

- (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 Education that an instrument purporting to be made or issued by—

- (a) the Secretary of State for Education, or
- (b) the Secretary of State for Children, Schools and Families,

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

(5) The Documentary Evidence Act 1868(a) applies in relation to the Secretary of State for Education—

- (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 to that Act included any officer authorised to act on behalf of the Secretary of State.

Transfer of functions and property etc from the Secretary of State for Children, Schools and Families to the Secretary of State for Education

4.—(1) The functions of the Secretary of State for Children, Schools and Families are transferred to the Secretary of State for Education.

(2) There are transferred to the Secretary of State for Education all property, rights and liabilities to which the Secretary of State for Children, Schools and Families is entitled or subject at the coming into force of this Order.

Other supplemental provision relating to the Secretary of State for Education

5.—(1) For the purposes of this article a function is a relevant function so far as—

- (a) it is transferred by article 4(1), or
- (b) it is within paragraph (2).

(2) A function is within this paragraph if—

- (a) immediately before 12th May 2010 it was entrusted to the Secretary of State for Children, Schools and Families, and
- (b) before the making of this Order it has been entrusted to the Secretary of State for Education.

(3) 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 Secretary of State for Children, Schools and Families may, so far as it relates to a relevant function or anything transferred by article 4(2), be continued by or in relation to the Secretary of State for Education.

(4) Anything done (or having effect as if done) by or in relation to the Secretary of State for Children, Schools and Families in connection with a relevant function or anything transferred by article 4(2) 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 Secretary of State for Education.

(5) Documents or forms printed for use in connection with a relevant function may be used in connection with that function even though they contain, or are to be read as containing, references to the Secretary of State for Children, Schools and Families; 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 Secretary of State for Education.

(a) 1868 c. 37.

(6) Any enactment or instrument passed or made before the coming into force of this Order has effect, so far as necessary for the purposes of or in consequence of—

- (a) the transfer or entrusting to the Secretary of State for Education of any relevant function, or
- (b) the transfer of anything by article 4(2),

as if references to (and references which are to be read as references to) the Secretary of State for Children, Schools and Families were or included references to the Secretary of State for Education.

(7) This Order does not affect the validity of anything done (or having effect as if done) by or in relation to the Secretary of State for Children, Schools and Families before the coming into force of this Order.

(8) In paragraphs (3) to (7) references to the Secretary of State for Children, Schools and Families include references to the department or an officer of the Secretary of State for Children, Schools and Families; and references to the Secretary of State for Education are to be read accordingly.

Consequential amendments

- 6. The Schedule has effect.

Judith Simpson
Clerk of the Privy Council

SCHEDULE

Article 6

CONSEQUENTIAL AMENDMENTS

PART 1

Primary legislation

Parliamentary Commissioner Act 1967 (c. 13)

- 1. In Schedule 2(a) to the Parliamentary Commissioner Act 1967—
 - (a) omit “Department for Children, Schools and Families”;
 - (b) at the appropriate place insert “Department for Education”.

School Standards and Framework Act 1998 (c. 31)

2. In paragraph 9(b) of Schedule 5 to the School Standards and Framework Act 1998 for “Department for Children, Schools and Families” substitute “Department for Education”.

(a) Schedule 2 was substituted by S.I. 2010/239, Sched. Amendments have been made to Schedule 2 (as substituted) which are not relevant to this Order.

(b) Paragraph 9 was amended by S.I. 2002/1397, Sched. and S.I. 2007/3224, Sched.

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

3. In Schedule 9 to the Domestic Violence, Crime and Victims Act 2004—

- (a) omit paragraph 1YA(a);
- (b) after paragraph 1ZA insert—

“1ZB. The Department for Education.”

Corporate Manslaughter and Corporate Homicide Act 2007 (c. 19)

4. In Schedule 1(b) to the Corporate Manslaughter and Corporate Homicide Act 2007—

- (a) omit “Department for Children, Schools and Families”;
- (b) at the appropriate place insert “Department for Education”.

PART 2

Subordinate legislation

Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order 1999 (S.I. 1999/2277)

5. In paragraph 19(c) of section 4 of Part 2 of Schedule 2 to the Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order 1999 for “or the Secretary of State for Children, Schools and Families” substitute “ the Secretary of State for Children, Schools and Families or the Secretary of State for Education”.

Family Procedure (Adoption) Rules 2005 (S.I. 2005/2795)

6. In rule 6(1)(d) of the Family Procedure (Adoption) Rules 2005, in the definition of “Central Authority”, for “Secretary of State for Children, Schools and Families” substitute “Secretary of State for Education”.

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

7. In Schedule 2(e) to the Disability Discrimination (Public Authorities) (Statutory Duties) Regulations 2005—

- (a) omit “The Secretary of State for Children, Schools and Families”;
- (b) at the appropriate place insert “The Secretary of State for Education”.

Children Act 2004 Information Database (England) Regulations 2007 (S.I. 2007/2182)

8. In the following provisions of the Children Act 2004 Information Database (England) Regulations 2007 for “Secretary of State for Children, Schools and Families” (wherever occurring) substitute “Secretary of State for Education”—

- (a) in regulation 2(1)(f), the definition of “the database”;

(a) Paragraph 1YA was inserted by S.I. 2007/3224, Sched.

(b) Schedule 1 was amended by S.I. 2008/396, art. 2. Other amendments have been made to Schedule 1 which are not relevant to this Order.

(c) Paragraph 19 was amended by S.I. 2002/1397, Sched. and S.I. 2007/3224, Sched.

(d) Rule 6(1) was amended by S.I. 2007/3224, Sched. Other amendments have been made to rule 6(1) which are not relevant to this Order.

(e) Schedule 2 was amended by S.I. 2007/3224, Sched. Other amendments have been made to Schedule 2 which are not relevant to this Order.

(f) Amendments have been made to regulation 2(1) which are not relevant to this Order.

- (b) regulation 3(2)(a);
- (c) regulation 4(1)(a);
- (d) regulation 6(1), (5) and (8)(b);
- (e) regulation 7(2);
- (f) regulation 8(2)(c), (3) and (4)(c);
- (g) regulation 10(1)(c) and (d);
- (h) regulation 11(1)(a) and (2);
- (i) regulation 12(1);
- (j) paragraph 20 of Schedule 1.

Education (Budget Statements) (England) Regulations 2008 (S.I. 2008/377)

9. In regulation 5(1)(a) of the Education (Budget Statements) (England) Regulations 2008 for “Secretary of State for Children, Schools and Families” substitute “Secretary of State for Education”.

Education (Outturn Statements) (England) Regulations 2009 (S.I. 2009/1586)

10. In regulation 6(1)(a) of the Education (Outturn Statements) (England) Regulations 2009 for “Secretary of State for Children, Schools and Families” substitute “Secretary of State for Education”.

Other subordinate legislation

11. In the following provisions for “Department for Children, Schools and Families” (wherever occurring) substitute “Department for Education”—

- (a) paragraph 34 of Part 2 of Schedule 1 to the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975(d);
- (b) in the Schedule to the Building Societies (Business Names) Regulations 1998(e), the column (2) entry relating to “School”;
- (c) Part 4 of Schedule 2 to the Race Relations Act 1976 (Statutory Duties) Order 2001(f);
- (d) paragraphs 2 and 4 of the Schedule to the General Teaching Council for England (Deduction of Fees) Regulations 2001(g);
- (e) regulation 5A(p) of the Police Act 1997 (Criminal Records) Regulations 2002(h);
- (f) Part 1 of the Schedule to the Damages (Government and Health Service Bodies) Order 2005(i);
- (g) in the Education (Pupil Information) (England) Regulations 2005(j)—
 - (i) in regulation 2, the definitions of “Departmental number” and “unique pupil number”;

(a) Regulation 4(1) was amended by S.I. 2010/1213, reg. 4.
 (b) Regulation 6(5) was amended by S.I. 2010/1213, reg. 5.
 (c) Regulation 8(2)(c) and (3) was amended by S.I. 2010/1213, reg. 6.
 (d) S.I. 1975/1023. Paragraph 34 was inserted by S.I. 2007/2149, art. 7 and was amended by S.I. 2007/3224, Sched.
 (e) S.I. 1998/3186. The Schedule was amended by S.I. 2002/1397, Sched. and S.I. 2007/3224, Sched. Other amendments have been made to the Schedule which are not relevant to this Order.
 (f) S.I. 2001/3458. Part 4 was amended by S.I. 2007/3224, Sched.
 (g) S.I. 2001/3993. Paragraphs 2 and 4 were amended by S.I. 2007/3224, Sched.
 (h) S.I. 2002/233. Regulation 5A was inserted by S.I. 2006/748, Sched. Paragraph (p) was inserted by S.I. 2007/1892, reg. 2 and was amended by S.I. 2007/3224, Sched.
 (i) S.I. 2005/474. Part 1 was amended by S.I. 2007/3224, Sched. Other amendments have been made to Part 1 which are not relevant to this Order.
 (j) S.I. 2005/1437. The regulations were amended by S.I. 2007/3224, Sched. Other amendments have been made to the regulations which are not relevant to this Order.

- (ii) regulation 9(2)(c);
- (iii) in paragraph 3 of Schedule 1, the definition of “comparative information”;
- (h) in regulation 2 of the Education (Information About Individual Pupils) (England) Regulations 2006(a), the definition of “unique pupil number”;
- (i) in the Table in Schedule 1 to the Accession (Immigration and Worker Authorisation) Regulations 2006(b), the column 2 entry relating to “Teacher or language assistant”;
- (j) in regulation 2(1) of the Education (Information About Children in Alternative Provision) (England) Regulations 2007(c), the definition of “unique pupil number”;
- (k) regulation 20(e) and (f) of the School Organisation (Establishment and Discontinuance of Schools) (England) Regulations 2007(d);
- (l) paragraph 38(1)(e) and (f) of each of Schedules 3 and 5 to the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007(e);
- (m) regulations 7(5)(e) and (f) and 33(1)(e) and (f) of the School Organisation (Transitional Provisions) (England) Regulations 2007(f);
- (n) paragraph 2(f) of Schedule 1 to the Education (Supply of Information about the School Workforce) (No. 2) (England) Regulations 2007(g);
- (o) paragraph 1 of Schedule 2 to the Information as to Provision of Education (England) Regulations 2008(h);
- (p) in regulation 3 of the Statistics and Registration Service Act 2007 (Disclosure of Pupil Information) (England) Regulations 2009(i), paragraph (a) of the definition of “anonymous pupil reference number”;
- (q) regulation 4(3)(a) and (c) of the Childcare (Provision of Information About Young Children) (England) Regulations 2009(j);
- (r) in Part 2 of Schedule 2 to the Company, Limited Liability Partnership and Business Names (Sensitive Words and Expressions) Regulations 2009(k), the column (2) entry relating to “Special school”;
- (s) paragraph 2 of the Schedule to the School Support Staff Negotiating Body (Excluded Persons) Regulations 2010(l).

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- (a) S.I. 2006/2601. Regulation 2 was amended by S.I. 2007/3224, Sched. Other amendments have been made to regulation 2 which are not relevant to this Order.
 - (b) S.I. 2006/3317. Schedule 1 was amended by S.I. 2007/3224, Sched. Other amendments have been made to Schedule 1 which are not relevant to this Order.
 - (c) S.I. 2007/1065. Regulation 2(1) was amended by S.I. 2007/3224, Sched.
 - (d) S.I. 2007/1288. Regulation 20(e) and (f) was amended by S.I. 2007/3224, Sched.
 - (e) S.I. 2007/1289. Paragraph 38(1)(e) and (f) of each of Schedules 3 and 5 was amended by S.I. 2007/3224, Sched.
 - (f) S.I. 2007/1355. Regulations 7(5)(e) and (f) and 33(1)(e) and (f) were amended by S.I. 2007/3224, Sched.
 - (g) S.I. 2007/2260.
 - (h) S.I. 2008/4.
 - (i) S.I. 2009/277.
 - (j) S.I. 2009/1554.
 - (k) S.I. 2009/2615.
 - (l) S.I. 2010/856.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order in Council is made under sections 1 and 2 of the Ministers of the Crown Act 1975. It makes provision in connection with the appointment of the Secretary of State for Education.

In particular, the Secretary of State for Education has replaced the Secretary of State for Children, Schools and Families and the Department for Children, Schools and Families has become the Department for Education. See the Prime Minister's written statement to Parliament dated 2nd June 2010 (reported in Hansard (House of Commons) at columns 22WS to 24WS; available at www.parliament.uk).

Article 3 provides for the incorporation of the Secretary of State for Education as a corporation sole and provides for the authentication of the corporate seal and the execution and certification of documents.

Article 4 transfers to the Secretary of State for Education the functions of the Secretary of State for Children, Schools and Families and the property, rights and liabilities of the Secretary of State for Children, Schools and Families.

Article 5 makes other supplementary provision relating to the Secretary of State for Education.

Article 6 and the Schedule to the Order make consequential amendments to Acts of Parliament and subordinate legislation.

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

An impact assessment has not been produced for this instrument as there is no impact on the voluntary or private sectors.

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STATUTORY INSTRUMENTS

2010 No. 1836

MINISTERS OF THE CROWN

The Secretary of State for Education Order 2010

£5.75