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STATUTORY INSTRUMENTS

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**2011 No. 741**

**MINISTERS OF THE CROWN**

**The Transfer of Functions (Media and Telecommunications etc.) Order 2011**

<i>Made</i>	- - - -	<i>16th March 2011</i>
<i>Laid before Parliament</i>		<i>23rd March 2011</i>
<i>Coming into force</i>	- -	<i>13th April 2011</i>

At the Court at Buckingham Palace, the 16th day of March 2011

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(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 (Media and Telecommunications etc.) Order 2011.

(2) This Order comes into force on 13th April 2011.

**Interpretation**

2.—(1) In this Order “instrument” includes 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.

(2) For the purposes of this Order, a function is a “former BIS function” so far as—

- (a) it is transferred by article 3, or
- (b) it was entrusted to the Secretary of State for Business, Innovation and Skills immediately before 21st December 2010 and has before the making of this Order been entrusted to the Secretary of State for Culture, Olympics, Media and Sport.

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(1) 1975 c. 26. Section 1 was amended by section 20 of the Constitutional Reform Act 2005 (c. 4).

### **Transfers of functions to the Secretary of State for Culture, Olympics, Media and Sport**

3. The functions of the Secretary of State for Business, Innovation and Skills under or by virtue of the provisions mentioned in Schedule 1 (functions relating to the operators of electronic communications code networks or to electronic communications apparatus etc.) are transferred to the Secretary of State for Culture, Olympics, Media and Sport.

### **Transfer of property, rights and liabilities**

4. There are transferred to the Secretary of State for Culture, Olympics, Media and Sport all property, rights and liabilities to which the Secretary of State for Business, Innovation and Skills is entitled or subject at the coming into force of this Order in connection with any former BIS function.

### **Supplementary**

5.—(1) 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 Business, Innovation and Skills before the coming into force of this Order.

(2) 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 Business, Innovation and Skills may, so far as it relates to a former BIS function or anything transferred by article 4, be continued by or in relation to the Secretary of State for Culture, Olympics, Media and Sport.

(3) Anything done (or having effect as if done) by or in relation to the Secretary of State for Business, Innovation and Skills in connection with a former BIS function or anything transferred by article 4 has effect, so far as is 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 Culture, Olympics, Media and Sport.

(4) 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—

- (a) the transfer or entrusting to the Secretary of State for Culture, Olympics, Media and Sport of any former BIS function, or
- (b) the transfer of anything by article 4,

as if references to (and references which are to be read as references to) the Secretary of State for Business, Innovation and Skills were or included references to the Secretary of State for Culture, Olympics, Media and Sport.

(5) In paragraphs (1) to (4) references to the Secretary of State for Business, Innovation and Skills include references to the department or an officer of that Secretary of State, and references to the Secretary of State for Culture, Olympics, Media and Sport are to be read accordingly.

### **Consequential amendments**

6. Schedule 2 has effect.

*Judith Simpson*  
Clerk of the Privy Council

## SCHEDULES

### SCHEDULE 1

Article 3

#### PROVISIONS REFERRED TO IN ARTICLE 3

The provisions(2) referred to in article 3 are—

- (a) paragraph 14(7) of Schedule 28 to the Local Government, Planning and Land Act 1980 (3);
- (b) paragraph 16(9) of that Schedule(4);
- (c) section 26(8) of the New Towns Act 1981(5);
- (d) section 39(7)(b) of that Act(6);
- (e) paragraph 12(8)(b) of Schedule 10 to the Housing Act 1988(7);
- (f) paragraph 14(10)(b) of that Schedule(8);
- (g) section 272(5)(b) and (6)(b) of the Town and Country Planning Act 1990(9);
- (h) section 273(8)(b) of that Act(10);
- (i) section 274(6) of that Act(11);
- (j) paragraph 9(8)(b) of Schedule 6 to the Regional Development Agencies Act 1998(12);

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- (2) The functions of the Secretary of State for Business, Innovation and Skills under or by virtue of the provisions mentioned were transferred from the Secretary of State for Business, Enterprise and Regulatory Reform by S.I. 2009/2748, article 4, having previously been transferred to that Secretary of State from the Secretary of State for Trade and Industry by S.I. 2007/3224, article 11. References to the Secretary of State for Trade and Industry in the provisions mentioned in paragraphs (a) to (i) accordingly have effect as, or as including, references to the Secretary of State for Business, Innovation and Skills by virtue of S.I. 2007/3224, article 12 and S.I. 2009/2748, article 6. But that is subject to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). By virtue of article 2 of, and Schedule 1 to, that Order certain functions of a Minister of the Crown under the Acts mentioned in paragraphs (a) to (i) were, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales. By virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c. 32), those functions were transferred to the Welsh Ministers immediately after the end of the initial period as defined by section 161(5) of that Act.
  - (3) 1980 c. 65. Paragraph 14(7) was substituted by the Telecommunications Act 1984 (c. 12), Schedule 4, paragraph 75(6) and amended by the Communications Act 2003 (c. 21), Schedule 17, paragraph 52.
  - (4) Paragraph 16(9) was inserted by the Telecommunications Act 1984, Schedule 4, paragraph 75(7) and amended by the Communications Act 2003, Schedule 17, paragraph 52.
  - (5) 1981 c. 64. Section 26(8) was substituted by the Telecommunications Act 1984, Schedule 4, paragraph 79(6) and amended by the Communications Act 2003, Schedule 17, paragraph 57.
  - (6) Section 39(7) was inserted by the Telecommunications Act 1984, Schedule 4, paragraph 79(7) and amended by the Communications Act 2003, Schedule 17, paragraph 57.
  - (7) 1988 c. 50. Paragraph 12(8) was amended by the Communications Act 2003, Schedule 17, paragraph 94.
  - (8) Paragraph 14(10) was amended by the Communications Act 2003, Schedule 17, paragraph 94.
  - (9) 1990 c. 8. By virtue of the Environment Act 1995 (c. 25), Schedule 8, paragraph 2, sections 272 and 274 have effect as if a National Park authority were a local authority for the purposes of the 1990 Act. Sections 272 to 274 have been applied with modifications by the Highways Act 1980 (c. 66), section 21 and Schedule 5, by the Conwy Tunnel (Supplementary Powers) Act 1983 (c. 7), Schedule 1, paragraph 8, by the Road Traffic (Driver Licensing and Information Systems) Act 1989 (c. 22), Schedule 4, paragraph 1, by the Crossrail Act 2008 (c. 18), section 9, by S.I. 2008/1261, Schedule 11, paragraph 1 (made under section 16 of the Harbours Act 1964 (c. 40)) and by numerous orders made under the Transport and Works Act 1992 (c. 42), sections 1, 3 and 5 and Schedule 1 – see, for example, S.I. 2009/2364, Schedule 8, paragraph 1 and Schedule 9, paragraph 4, S.I. 2009/2728, Schedule 6 and S.I. 2010/1721, Schedule 8, paragraph 1.
  - (10) Section 273(8) was amended by the Communications Act 2003, Schedule 17, paragraph 103. See footnote (h) above.
  - (11) See footnote (h) above.
  - (12) 1998 c. 45. Paragraph 9(8) was amended by the Communications Act 2003, Schedule 17, paragraph 155, by S.I. 2007/3224, Schedule, paragraph 8 and by S.I. 2009/2748, Schedule, paragraph 5.

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- (k) paragraph 11(10)(b) of that Schedule(**13**);
- (l) paragraph 8(4)(b) of Schedule 4 to the Housing and Regeneration Act 2008(**14**);
- (m) paragraph 15(2)(b) of that Schedule(**15**);
- (n) paragraph 6(3) of Part 4 of Schedule 17 to the Crossrail Act 2008(**16**).

## SCHEDULE 2

Article 6

### CONSEQUENTIAL AMENDMENTS

#### **Regional Development Agencies Act 1998 (c. 45)**

1. In paragraphs 9(8)(b) and 11(10)(b) of Schedule 6 to the Regional Development Agencies Act 1998, for “the Secretary of State for Business, Innovation and Skills” substitute “the Secretary of State for Culture, Olympics, Media and Sport”.

#### **Housing and Regeneration Act 2008 (c. 17)**

2. In the following provisions of Schedule 4 to the Housing and Regeneration Act 2008(**17**), for “the Secretary of State for Business, Innovation and Skills” substitute “the Secretary of State for Culture, Olympics, Media and Sport”—

- (a) paragraph 8(4)(b),
- (b) paragraph 15(2)(b), and
- (c) paragraph 40(1)(b).

#### **Crossrail Act 2008 (c. 18)**

3. In paragraph 6(3) of Part 4 of Schedule 17 to the Crossrail Act 2008, for “the Secretary of State for Business, Innovation and Skills” substitute “the Secretary of State for Culture, Olympics, Media and Sport”.

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### 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 transfer of functions from the Secretary of State for Business, Innovation and Skills to the Secretary of State for Culture, Olympics, Media and Sport.

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(13) Paragraph 11(10) was amended by the Communications Act 2003, Schedule 17, paragraph 155, by [S.I. 2007/3224](#), Schedule, paragraph 8 and by [S.I. 2009/2748](#), Schedule, paragraph 5.

(14) [2008 c. 17](#). Paragraph 8(4) was amended by [S.I. 2009/2748](#), Schedule, paragraph 9.

(15) Paragraph 15(2) was amended by [S.I. 2009/2748](#), Schedule, paragraph 9.

(16) [2008 c. 18](#). Paragraph 6(3) was amended by [S.I. 2009/2748](#), Schedule, paragraph 10.

(17) The provisions mentioned were amended by [S.I. 2009/2748](#), Schedule, paragraph 9.

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The responsibilities transferred to the Secretary of State for Culture, Olympics, Media and Sport were set out in a Written Statement to Parliament dated 18 January 2011: see Hansard (House of Commons) 18 January 2011 at column 35-36WS, available at [www.parliament.uk](http://www.parliament.uk).

Article 3 and Schedule 1 transfer to the Secretary of State for Culture, Olympics, Media and Sport certain functions of the Secretary of State for Business, Innovation and Skills.

Article 4 makes provision for the transfer of property, rights and liabilities in connection with the transfer of functions under article 3 and the entrusting of functions to the Secretary of State for Culture, Olympics, Media and Sport. Article 5 makes supplementary provision.

Article 6 and Schedule 2 make consequential amendments to Acts of Parliament.

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 sectors is foreseen.