STATUTORY INSTRUMENTS

2018 No. 644

CONSTITUTIONAL LAW
DEVOLUTION, WALES

The Welsh Ministers (Transfer of Functions) Order 2018

Made - - - - 23rd May 2018

Coming into force in accordance with article 1

At the Court at Buckingham Palace, the 23rd day of May 2018

Present,

The Queen's Most Excellent Majesty in Council

A draft of this Order has been laid before, and approved by a resolution of, each House of Parliament in accordance with section 58(4)(a) of the Government of Wales Act 2006 [F1] and has been approved by the Welsh Ministers in accordance with section 58(4)(b) of that Act.

Her Majesty, in exercise of the powers conferred by sections 58(1) and (3) and 157(2) of, and paragraph 2(1) of Schedule 4 to, that Act [F2], is pleased, by and with the advice of Her Privy Council, to order as follows:

F1 2006 c. 32.

F2 Section 58(1) was amended by section 43(4) of, and paragraph 6(1), and (3)(a) to (c) of Part 2 of Schedule 4 to, the Marine and Coastal Access Act 2009 (c. 23) and by sections 21(1) and 49 of the Wales Act 2017 (c. 4).

Citation, commencement, interpretation and general provision

1.—(1) This Order may be cited as the Welsh Ministers (Transfer of Functions) Order 2018 and save as is provided in paragraph (2) comes into force on the day after the date on which it is made.

(2) Article 39 (which transfers functions in relation to the Education Act 2002 [F3]) comes into force on 30th September 2018.

(3) In this Order—

"the 1999 Order" means the National Assembly for Wales (Transfer of Functions) Order 1999 [F4];

"cross-border harbour" has the meaning given to that expression in section 34 of the Wales Act 2017 [F5];

"reserved trust port" has the meaning given to that expression in section 32 of the Wales Act 2017.

(4) In this Order, an expression used in relation to an enactment has the same meaning as in the enactment to which the expression relates.

(5) Any reference in this Order to a function of a Minister of the Crown under an enactment includes a reference to any functions of that Minister which are included in any scheme, regulations, rules, order, bye-laws or other instrument having effect under or in relation to that enactment, and the power to confer functions on that Minister by any such scheme, regulations, rules, order, bye-laws or other instrument has effect as a power to confer such functions on the Welsh Ministers.

(6) Paragraph 1(1) (transfer of property, rights and liabilities connected with transferred functions) of Schedule 4 to the Government of Wales Act 2006 does not apply to any documentary or electronic records to which a Minister of the Crown is entitled at the coming into force of any provision in this Order in connection with any function exercisable by the Minister which is transferred by this Order.

F3 2002 c. 32.
F4 S.I. 1999/672.
F5 2017 c. 4.

Agriculture (Artificial Insemination) Act 1946

2.—(1) The functions of the Minister under section 1 (power in connection with research as to the artificial insemination of livestock) of the Agriculture (Artificial Insemination) Act 1946 [F6] ("the 1946 Act"), currently exercisable by the Welsh Ministers and the Secretary of State jointly [F7] are, so far as they are exercisable in relation to Wales, transferred to the Welsh Ministers (who may accordingly exercise those functions in relation to Wales acting alone).

(2) The 1946 Act applies in relation to the exercise of the functions under section 1(1) by the Welsh Ministers as if section 1(2) were omitted.

F6 1946 c. 29.
F7 The functions of the Minister were transferred, so far as they are exercisable in relation to Wales, to the Secretary of State for Wales acting jointly with the Minister of Agriculture, Fisheries and Food by article 2 of, and Schedule 1 to, S.I. 1978/272. The functions transferred by that instrument to the Secretary of State were transferred to the National Assembly for Wales by the 1999 Order and are now exercisable by the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

Industrial Organisation and Development Act 1947

3.—(1) Subject to paragraph (3), the functions of a Minister of the Crown under the Industrial Organisation and Development Act 1947 [F8] ("the 1947 Act"), so far as they are exercisable in relation to Wales and have not already been transferred by the 1999 Order, are transferred to the Welsh Ministers.

(2) Accordingly—

(a) section 9(4) of the 1947 Act applies in relation to the exercise of functions under that subsection by the Welsh Ministers as if for "as the Treasury may direct" there were substituted " as the Welsh Ministers consider appropriate "; and

(b) the Welsh Ministers may exercise the functions of the Board of Trade under section 11 of the 1947 Act in relation to Wales acting alone and without the need for Treasury approval.

(3) The function under section 7(4) (reports, and accounts, of development councils) of the 1947 Act [F9] is not transferred so far as it relates to a development council exercising functions in relation to England and Wales or in relation to Great Britain.

F8 1947 c. 40; the functions of the Minister of Agriculture, Fisheries and Food were transferred to the National Assembly for Wales by the 1999 Order and are now exercisable by the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

F9 Section 7(4) was amended by article 5 of, and paragraph 1(1) of Schedule 1 to, S.I. 2017/1313.

Agriculture Act 1947

4. The functions of the Lord Chancellor under section 73(3) (power to set procedure for the Agricultural Land Tribunal for Wales (or Tribiwnlys Tir Amaethyddol Cymru)) of the Agriculture Act 1947 [F10] are transferred to the Welsh Ministers.

F10 1947 c. 48; section 73 was amended by section 8(1) of paragraph 3 of Part 1 of Schedule 1 to, the Agriculture Act 1958 (c. 71), **section 100** of, and paragraph 18 of Schedule 14 to, the Agricultural Holdings Act 1986 (c. 5) and article 6(1) of, and paragraphs 189 and 190(a) to (c), (d)(ii) and (iii), and (e) to (f) of Part 2 of Schedule 1 to, S.I. 2013/1036.

Coast Protection Act 1949

5.—(1) Except as set out in paragraph (3), the functions of a Minister of the Crown under section 17 (notification to coast protection authority of coast protection work to be carried out by certain authorities) of the Coast Protection Act 1949 [F11] so far as they are exercisable in relation to Wales and so far as not already transferred under the 1999 Order are transferred to the Welsh Ministers.

(2) Accordingly, all references in that section to a Minister concerned, or to the appropriate Minister (however expressed) are to be construed as a reference to the Welsh Ministers in relation to the exercise of functions transferred by paragraph (1).

(3) Paragraph (1) does not operate to transfer any function to the extent that it is exercisable in relation to a cross-border harbour or a reserve trust port.

F11 1949 c. 74; there are amendments to section 17 which are not relevant to this instrument. The functions of Ministers of the Crown other than "the Minister" and the Minister of Agriculture, Fisheries and Food, so far as they are exercisable in relation to Wales, were transferred to the National Assembly for Wales by article 2 of, and Schedule 1 to, the 1999 Order and are now exercisable by the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

National Parks and Access to the Countryside Act 1949

6. The functions of the Minister under the following provisions of the National Parks and Access to the Countryside Act 1949 [F12], so far as they are exercisable in relation to Wales, are transferred to the Welsh Ministers—

(a) section 65(3) (access orders);

(b) section 72 (claims for compensation and interest);

(c) section 78(1) (maps of land subject to public access); and

(d) paragraph 4 of Schedule 1 (provisions as to the making, confirmation, coming into operation and validity of certain instruments).

F12 1949 c. 97; paragraph 4 of Schedule 1 was amended by section 312(2) of, and Schedule 25 to, the Highways Act 1959 (c. 25).

Agricultural Marketing Act 1958

7.—(1) Except as set out in paragraph (2), it is directed that the functions of a Minister of the Crown under section 22 (Agricultural Marketing Funds) of the Agricultural Marketing Act 1958 [F13] ("the 1958 Act"), so far as they are exercisable in relation to a scheme applicable in Wales (whether or not any such scheme is also applicable in England or Scotland), are to be exercisable by the Minister of the Crown only with the agreement of the Welsh Ministers.

(2) Paragraph (1) does not apply to any function of the Treasury under section 22 of the 1958 Act.

F13 1958 c. 47; there have been amendments to section 22 which are not relevant to this instrument.

Plant Varieties and Seeds Act 1964

8.—(1) The functions of a Minister of the Crown under the Plant Varieties and Seeds Act 1964 [F14] ("the 1964 Act"), so far as they are exercisable in relation to Wales and so far as not already transferred by the 1999 Order, are transferred to the Welsh Ministers.

(2) The requirement under section 24(4) (official testing stations and certificates of test) of the 1964 Act to obtain Treasury approval for the authorisation of the charging of fees under that section ceases to apply in relation to fees charged in Wales under an authorisation of the Welsh Ministers.

F14 1964 c. 14; the functions of the Minister of Agriculture, Fisheries and Food, so far as they are exercisable in relation to Wales, were transferred to the Secretary of State by article 2 of, and Schedule 1 to, the Transfer of Functions (Wales) (No. 1) Order 1978 (S.I. 1978/272). Those functions were then transferred to the National Assembly for Wales by article 2 of, and Schedule 1 to, the 1999 Order and are now exercisable by the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

Plant Health Act 1967

9.—(1) The Treasury consent requirements under sections 4(1) (execution of Act by Government Departments) and 4A (charges in connection with import and export licences and certificates) of the Plant Health Act 1967 [F15] ("the 1967 Act") cease to apply in so far as the functions under those sections are exercised by the Welsh Ministers.

(2) Section 4(3) of the 1967 Act applies in so far as the functions under section 4 are exercised by the Welsh Ministers as if the words from ", but shall not" to the end were omitted.

F15 1967 c. 8; section 4 was amended by section 4 of and paragraph 8(1) and (3) of Schedule 4 to the European Communities Act 1972 (c. 68) and section 4A was inserted by section 3 of the Agriculture Act 1986 (c. 49). The functions of the Minister of Agriculture, Fisheries and Food under section 4, so far as they are exercisable in relation to Wales, were transferred to the Secretary of State for Wales by article 2 of, and Schedule 1 to, the Transfer of Functions (Wales) (No. 1) Order 1978; those functions and the functions of the competent authority under section 4A, were transferred to the National Assembly for Wales by article 2 of, and Schedule 1 to, the 1999 Order, subject to the continuing

requirement for Treasury consent. Those functions are now exercisable by the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

Agriculture Act 1967

10. The Treasury approval requirements under section 53(2) and (3) (Boards' annual report and accounts) of the Agriculture Act 1967 [F16] cease to apply in so far as the functions under that provision are exercised by the Welsh Ministers.

F16 1967 c. 22; the functions of the appropriate Minister were transferred to the Welsh Ministers, subject to the continuing requirement for Treasury approval, by article 2 of, and Schedule 1 to, the 1999 Order and are now exercisable by the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

Conservation of Seals Act 1970

11. The functions of the Secretary of State under section 1(2) (prohibited methods of killing seals) of the Conservation of Seals Act 1970 [F17], so far as they are exercisable in relation to Wales, are transferred to the Welsh Ministers.

F17 1970 c. 30.

Agriculture Act 1970

12. The Treasury approval requirement under section 78(10) (further analysis by Government Chemist) of the Agriculture Act 1970 [F18] ceases to apply in so far as the function under that provision is exercised by the Welsh Ministers.

F18 1970 c. 40; subsection (10) was amended by S.I. 1970/1537. The functions of the Secretary of State, so far as they are exercisable in relation to Wales, were transferred to National Assembly for Wales by article 2 of, and Schedule 1 to, the 1999 Order and are now exercisable by the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

Chronically Sick and Disabled Persons Act 1970

13.—(1) Section 21 (badges for display on motor vehicles used by disabled people) of the Chronically Sick and Disabled Persons Act 1970 [F19] is amended in accordance with paragraphs (2) and (3).

(2) In subsection (1A)—

(a) in paragraph (a) omit "and Wales";

(b) after paragraph (a) insert—

"(aa) of a form specified or approved by the Welsh Ministers, in the case of a badge issued by a local authority in Wales;".

(3) In subsection (8C), for "(1A)(b)" substitute " (1A)(aa) or (b) ".

F19 1970 c. 44; subsections (1A) and (8C) were inserted into section 21 by section 1(1) and (3) of Disabled Persons' Parking Badges Act 2013 (c. 4); subsection (8C) was amended by article 4(1) and (2)(a) and (b) of S.I. 2016/436.