STATUTORY INSTRUMENTS

2016 No. 997

MINISTERS OF THE CROWN

The Transfer of Functions (Elections, Referendums, Third Sector and Information) Order 2016

Made - - - -	*12th October 2016*
Laid before Parliament	*19th October 2016*
Coming into force - -	*9th November 2016*

At the Court at Buckingham Palace, the 12th day of October 2016

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred by section 1 of the Ministers of the Crown Act 1975 [F1], is pleased, by and with the advice of Her Privy Council, to order as follows:

F1 1975 c. 26. Section 1 was amended by section 20 of the Constitutional Reform Act 2005 (c. 4).

Citation and commencement

1.—(1) This Order may be cited as the Transfer of Functions (Elections, Referendums, Third Sector and Information) Order 2016.

(2) This Order comes into force on 9th November 2016.

Interpretation

2. In this Order—

"article 3 function" means a function which is directed by article 3(1) to be exercisable by the Secretary of State concurrently with the Minister for the Cabinet Office;

"article 5 function" means a function which is directed by article 5 to be exercisable by the Secretary of State concurrently with the Leader of the House of Commons;

"the Chancellor of the Duchy" means the Chancellor of the Duchy of Lancaster;

"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;

"the Leader of the House of Commons" means the Minister of the Crown who is for the time being designated as Leader of the House of Commons by the Prime Minister.

Transfer of concurrently exercisable functions of the Chancellor of the Duchy to the Minister for the Cabinet Office

3.—(1) The functions of the Secretary of State under—

(a) an Act, or a provision of an Act or instrument, listed in Schedule 1, or

(b) an instrument having effect under any such Act or provision of such an Act,

which are exercisable concurrently with the Chancellor of the Duchy are to cease to be exercisable concurrently with the Chancellor of the Duchy and are instead to be exercisable concurrently with the Minister for the Cabinet Office [F2].

(2) The functions to which paragraph (1) applies include functions under any provision not yet in force at the time this Order is made (and in Schedule 1 a reference to an Act or provision of an Act or instrument includes a reference to the Act or provision as amended by any provision of an enactment or instrument passed or made before that time even though the amending provision is not yet in force at that time).

F2 The functions that are to be exercisable by the Minister for the Cabinet Office (concurrently with the Secretary of State) include those functions that were made exercisable by the Chancellor of the Duchy (concurrently with the Secretary of State) by S.I. 2015/1376, **art. 3**, S.I. 2015/1526, art. 3 and by S.I. 2015/1897, **art. 3**.

Transfer of property, rights and liabilities in connection with article 3

4. There are transferred to the Minister for the Cabinet Office all property, rights and liabilities to which the Chancellor of the Duchy is entitled or subject at the coming into force of this Order in connection with an article 3 function.

Transfer of concurrently exercisable functions of the Chancellor of the Duchy to the Leader of the House of Commons

5. The functions of the Secretary of State under sections 3 and 4 of the Parliamentary Constituencies Act 1986 [F3] are to cease to be exercisable concurrently with the Chancellor of the Duchy and are instead to be exercisable concurrently with the Leader of the House of Commons.

F3 1986 c. 56. Section 3 was amended by section 2 of the Boundary Commissions Act 1992 (c. 55), **section 10** of the Parliamentary Voting System and Constituencies Act 2011 (c. 1) and section 6 of the Electoral Registration and Administration Act 2013 (c. 6). Section 4 was amended by section 10 of the Parliamentary Voting System and Constituencies Act 2011 (c. 1) and the Schedule to the Fixed-term Parliaments Act 2011 (c. 14). There are other amendments to the 1986 Act not relevant to this Order.

Supplementary provision in connection with articles 3 to 5

6.—(1) This article applies to—

(a) an article 3 function,

(b) anything transferred by article 4, and

(c) an article 5 function.

(2) In this article, "the transferee" means—

(a) in relation to an article 3 function or anything transferred by article 4, the Minister for the Cabinet Office, and

(b) in relation to an article 5 function, the Leader of the House of Commons.

(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 Chancellor of the Duchy may, so far as it relates to anything to which this article applies, be continued by or in relation to the transferee.

(4) Anything done (or having effect as if done) by or in relation to the Chancellor of the Duchy in connection with anything to which this article applies 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 transferee.

(5) Documents or forms printed for use in connection with an article 3 function or an article 5 function may be used in connection with the exercise of that function by the transferee even though they contain, or are to be read as containing, references to the Chancellor of the Duchy; and for the purposes of the use of any such documents or forms in connection with the exercise of that function by the transferee, those references are to be read as references to the transferee.

(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 the transfer of anything to which this article applies, as if references to the Chancellor of the Duchy (and references which are to be read as references to the Chancellor of the Duchy) were references to the transferee.

Transfer of functions exercisable by the Chancellor of the Duchy only to the Minister for the Cabinet Office

7. The following functions of the Chancellor of the Duchy are transferred to the Minister for the Cabinet Office—

(a) functions under the Freedom of Information Act 2000 [F4] (other than functions to which article 3(1) applies);

(b) functions under section 2(2)(b) of the Political Parties, Elections and Referendums Act 2000 [F5];

(c) functions under—

(i) the Representation of the People (England and Wales) Regulations 2001 [F6];

(ii) the Representation of the People (Scotland) Regulations 2001 [F7].

F4 2000 c. 36. The functions that are to be transferred to the Minister for the Cabinet Office are those that were transferred to the Chancellor of the Duchy by S.I. 2015/1897, **art. 4**.

F5 2000 c. 41. Section 2(2)(b) was amended by S.I. 2001/3500, **Sch. 2**, substituted by S.I. 2002/2626, **Sch. 2** and amended by S.I. 2010/1837, **Sch.** and S.I. 2015/1376, **Sch. 2**. The functions that are to be transferred to the Minister for the Cabinet Office are those that were transferred to the Chancellor of the Duchy by S.I. 2015/1376.

F6 S.I. 2001/341, amended by S.I. 2013/3198, 2015/1376; there are other amending instruments but none is relevant. The functions that are to be transferred to the Minister for the Cabinet Office are those that were transferred to the Chancellor of the Duchy by S.I. 2015/1376.

F7 S.I. 2001/497, amended by S.I. 2013/3206, 2015/1376; there are other amending instruments but none is relevant. The functions that are to be transferred to the Minister for the Cabinet Office are those that were transferred to the Chancellor of the Duchy by S.I. 2015/1376.

Supplementary provision in connection with article 7

8.—(1) There are transferred to the Minister for the Cabinet Office all property, rights and liabilities to which the Chancellor of the Duchy is entitled or subject at the coming into force of this Order in connection with a function which is transferred by article 7 to the Minister for the Cabinet Office (an "article 7 function").

(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 Chancellor of the Duchy may, so far as it relates to an article 7 function or anything transferred by paragraph (1), be continued by or in relation to the Minister for the Cabinet Office.

(3) Anything done (or having effect as if done) by or in relation to the Chancellor of the Duchy in connection with an article 7 function or anything transferred by paragraph (1) 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 Minister for the Cabinet Office.

(4) Documents or forms printed for use in connection with an article 7 function may be used in connection with the exercise of that function by the Minister for the Cabinet Office even though they contain, or are to be read as containing, references to the Chancellor of the Duchy; and for the purposes of the use of any such documents or forms in connection with the exercise of that function by the Minister for the Cabinet Office, those references are to be read as references to the Minister for the Cabinet Office.

(5) 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 article 7 or paragraph (1), as if references to the Chancellor of the Duchy (and references which are to be read as references to the Chancellor of the Duchy) were references to the Minister for the Cabinet Office.

Function of the Secretary of State to be exercisable concurrently with the Minister for the Cabinet Office

9. The function of the Secretary of State under regulation 114(6) of the Recall of MPs Act 2015 (Recall Petition) Regulations 2016 [F8] is to be exercisable concurrently with the Minister for the Cabinet Office.

F8 S.I. 2016/295.

Transfer of functions from the Minister for the Cabinet Office to the Secretary of State

10.—(1) The functions of the Minister for the Cabinet Office under an Act, a provision of an Act or an instrument listed in paragraph (2) are transferred to the Secretary of State.

(2) The Acts, provisions and instruments referred to in paragraph (1) are—

(a) sections 2, 3 and 4 of the House to House Collections Act 1939 [F9];

(b) the Charities Act 1992 [F10];

(c) sections 22, 34, 36B and 36E of and Schedule 4A to the National Lottery etc. Act 1993 [F11];

(d) sections 496, 497, 497A, 497AA, 507B and 571 of the Education Act 1996 [F12];

(e) sections 63, 72, 73, 77 and 79 of the Charities Act 2006 [F13];

(f) the Dormant Bank and Building Society Accounts Act 2008 [F14];

(g) the Charities Act 2011 [F15];

(h) the Tax Relief for Social Investments (Accreditation of Social Impact Contractor) Regulations 2014 [F16];

(i) sections 16 and 17 of the Charities (Protection and Social Investment) Act 2016 [F17].

(3) The functions to which paragraph (1) applies include functions under any provision not yet in force at the time this Order is made (and in paragraph (2) a reference to an Act, a provision of an Act or an instrument includes a reference to the Act, provision or instrument as amended by any provision of an enactment or instrument passed or made before that time even though the amending provision is not yet in force at that time).

(4) The function of the Secretary of State under section 5(1) of the Police, Factories, &c. (Miscellaneous Provisions) Act 1916 (regulation of street collections) [F18] which is exercisable by the Secretary of State and the Minister for the Cabinet Office concurrently is to cease to be exercisable by the Minister for the Cabinet Office.

F9 1939 c. 44. The functions under sections 2, 3 and 4 were transferred to the Minister for the Cabinet Office by S.I. 2006/2951, **art. 3**.

F10 1992 c. 41, amended by sections 68 and 69 of the Charities Act 2006. The functions under this Act were transferred to the Minister for the Cabinet Office by S.I. 2006/2951, **art. 3**.

F11 1993 c. 39. Section 22 was amended by section 7 of the National Lottery Act 2006 (c. 23). Sections 36B, 36E and Schedule 4A were inserted by sections 14 and 15 of that Act. The functions under sections 22, 34, 36B and 36E and Schedule 4A were transferred to the Minister for the Cabinet Office by S.I. 2011/739, **art. 2**. There are other amendments to the 1993 Act not relevant to this Order.

F12 1996 c. 56. Section 497A was inserted by section 8 of the School Standards and Framework Act 1998 (c. 31). Section 497AA was inserted by section 61 of the Education Act 2002 (c. 32). Section 507B was inserted by section 6 of the Education and Inspections Act (c. 40). The functions under sections 496, 497, 497A, 497AA, 507B and 571 were transferred to the Minister for the Cabinet Office by S.I. 2013/1721, **art. 2**. The functions under sections 496, 497, 497A and 497AA were transferred so far as relating to the exercise of any function of a local authority under section 507B. The function under section 571 was transferred so far as relating to guidance under section 507B(12). There are other amendments to the 1996 Act not relevant to this Order.

F13 2006 c. 50, amended by section 354 and schedule 7 of the Charities Act 2011 and section 1177 and Schedule 1 of the Corporation Tax Act 2010 (c. 4).

F14 2008 c. 31. The functions under this Act were transferred to the Minister for the Cabinet Office by S.I. 2010/2967, **art. 2**.

F15 2011 c. 25, amended by sections 9 and 10 of the Charities (Protection and Social Investment) Act 2016 (c. 4).

F16 S.I. 2014/3066, amended by S.I. 2015/2051.

F17 2016 c. 4.

F18 1916 c. 31. The function under section 5 was conferred on the Minister for the Cabinet Office by S.I. 2006/2951, **art. 3**.

Supplementary provision in connection with article 10

11.—(1) In this article, "article 10 function" means a function which—

(a) is transferred by article 10(1) from the Minister for the Cabinet Office to the Secretary of State, or

(b) ceases by virtue of article 10(4) to be exercisable concurrently by the Minister for the Cabinet Office.

(2) There are transferred to the Secretary of State for Culture, Media and Sport all property, rights and liabilities to which the Minister for the Cabinet Office is entitled or subject at the coming into force of this Order in connection with an article 10 function.