STATUTORY INSTRUMENTS

2016 No. 992

MINISTERS OF THE CROWN

The Secretaries of State for Business, Energy and Industrial Strategy, for International Trade and for Exiting the European Union and the Transfer of Functions (Education and Skills) 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 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 Secretaries of State for Business, Energy and Industrial Strategy, for International Trade and for Exiting the European Union and the Transfer of Functions (Education and Skills) Order 2016.

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

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 6(1), or

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

(b) it was entrusted to the Secretary of State for Business, Innovation and Skills immediately before 13th July 2016 and has before the making of this Order been entrusted to the Secretary of State for Business, Energy and Industrial Strategy.

(3) For the purposes of this Order, a function is a "former DECC function" so far as—

(a) it is transferred by article 6(2), or

(b) it was entrusted to the Secretary of State for Energy and Climate Change immediately before 13th July 2016 and has before the making of this Order been entrusted to the Secretary of State for Business, Energy and Industrial Strategy.

(4) Paragraph (3)(b) does not apply to a function which, after the entrusting of the function to the Secretary of State for Business, Energy and Industrial Strategy but before the making of this Order, is transferred to the Oil and Gas Authority by Schedule 1 to the Energy Act 2016(**2**) or by regulations under section 2(2) of that Act.

Incorporation of the Secretary of State for Business, Energy and Industrial Strategy

3.—(1) The person who at the coming into force of this Order is the Secretary of State for Business, Energy and Industrial Strategy and any successor to that person is by that name a corporation sole.

(2) The corporate seal of the Secretary of State for Business, Energy and Industrial Strategy—

(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 Business, Energy and Industrial Strategy and to be—

(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 Business, Energy and Industrial Strategy that an instrument purporting to be made or issued by—

(a) the Secretary of State for Business, Energy and Industrial Strategy,

(b) the Secretary of State for Business, Innovation and Skills,

(c) the Secretary of State for Energy and Climate Change,

(d) the Secretary of State for Business, Enterprise and Regulatory Reform,

(e) the Secretary of State for Innovation, Universities and Skills, or

(f) the Secretary of State for Trade and Industry,

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

(5) The Documentary Evidence Act 1868(**3**) applies in relation to the Secretary of State for Business, Energy and Industrial Strategy—

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

(**2**) 2016 c. 20.
(**3**) 1868 c. 37.

Incorporation of the Secretary of State for International Trade

4.—(1) The person who at the coming into force of this Order is the Secretary of State for International Trade and any successor to that person is by that name a corporation sole.

(2) The corporate seal of the Secretary of State for International Trade—

(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 International Trade and to be—

(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 International Trade that an instrument purporting to be made or issued by—

(a) the Secretary of State for International Trade,

(b) the Secretary of State for Business, Innovation and Skills,

(c) the Secretary of State for Business, Enterprise and Regulatory Reform,

(d) the Secretary of State for Innovation, Universities and Skills, or

(e) the Secretary of State for Trade and Industry,

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

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

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

Incorporation of the Secretary of State for Exiting the European Union

5.—(1) The person who at the coming into force of this Order is the Secretary of State for Exiting the European Union and any successor to that person is by that name a corporation sole.

(2) The corporate seal of the Secretary of State for Exiting the European Union—

(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 Exiting the European Union and to be—

(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 Exiting the European Union that an instrument purporting to be made or issued by that Secretary of State was so made or issued is conclusive evidence of that fact.

(5) The Documentary Evidence Act 1868 applies in relation to the Secretary of State for Exiting the European Union—

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

Transfer of functions to the Secretary of State for Business, Energy and Industrial Strategy

6.—(1) The functions of the Secretary of State for Business, Innovation and Skills (other than the function mentioned in article 10) are transferred to the Secretary of State for Business, Energy and Industrial Strategy.

(2) The functions of the Secretary of State for Energy and Climate Change are transferred to the Secretary of State for Business, Energy and Industrial Strategy.

Transfers of property, rights and liabilities to the Secretary of State for Business, Energy and Industrial Strategy

7.—(1) There are transferred to the Secretary of State for Business, Energy and Industrial Strategy 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 (other than property, rights and liabilities transferred by article 9(2), 11(3) or 12(2)).

(2) There are transferred to the Secretary of State for Business, Energy and Industrial Strategy all property, rights and liabilities to which the Secretary of State for Energy and Climate Change is entitled or subject at the coming into force of this Order.

Secretary of State for Business, Energy and Industrial Strategy: supplementary

8.—(1) In this article, "the transferor" means—

(a) in relation to a former BIS function or anything transferred by article 7(1), the Secretary of State for Business, Innovation and Skills, and

(b) in relation to a former DECC function or anything transferred by article 7(2), the Secretary of State for Energy and Climate Change.

(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 transferor may, so far as it relates to a former BIS function, a former DECC function or anything transferred by article 7, be continued by or in relation to the Secretary of State for Business, Energy and Industrial Strategy.

(3) Anything done (or having effect as if done) by or in relation to the transferor in connection with a former BIS function, a former DECC function or anything transferred by article 7 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 Business, Energy and Industrial Strategy.

(4) Documents or forms printed for use in connection with a former BIS function or a former DECC function may be used in connection with that function even though they contain, or are to be read as containing, references to the transferor; 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 Business, Energy and Industrial Strategy.

(5) 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 Business, Energy and Industrial Strategy of a former BIS function or a former DECC function, or

(b) the transfer of anything by article 7,

as if references to (and references which are to be read as references to) the transferor were or included references to the Secretary of State for Business, Energy and Industrial Strategy.

(6) In paragraphs (2) to (5), references to the transferor include references to the department or an officer of the transferor; and references to the Secretary of State for Business, Energy and Industrial Strategy are to be read accordingly.

Functions passing to the Secretary of State for International Trade: supplementary

9.—(1) For the purposes of this article, a function is a "trade function" so far as it was entrusted to the Secretary of State for Business, Innovation and Skills immediately before 13th July 2016 and has before the making of this Order been entrusted to the Secretary of State for International Trade.

(2) There are transferred to the Secretary of State for International Trade 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 a trade function.

(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 Business, Innovation and Skills may, so far as it relates to a trade function or anything transferred by paragraph (2), be continued by or in relation to the Secretary of State for International Trade.

(4) 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 trade function or anything transferred by paragraph (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 International Trade.

(5) Documents or forms printed for use in connection with a trade 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 Business, Innovation and Skills; 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 International Trade.

(6) 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 entrusting to the Secretary of State for International Trade of a trade function, or

(b) the transfer of anything by paragraph (2),

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 International Trade.

(7) In paragraphs (3) to (6), references to the Secretary of State for Business, Innovation and Skills include references to the department or an officer of the Secretary of State for Business, Innovation and Skills; and references to the Secretary of State for International Trade are to be read accordingly.

Transfer of functions to the Secretary of State for Education

10. The function of the Secretary of State for Business, Innovation and Skills under regulation 3 of the Charities Act 2011 (Principal Regulators of Exempt Charities) Regulations 2013(**4**) is transferred to the Secretary of State for Education.

(**4**) S.I. 2013/1764.