WELSH STATUTORY INSTRUMENTS

2005 No. 3225 (W.237)

TOURISM, WALES

The Wales Tourist Board (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005

Made - - - - 22 November 2005

Coming into force the day after the order is made

The National Assembly for Wales, in exercise of the powers conferred upon it by section 28 of and Schedule 4 to the Government of Wales Act 1998(**1**), makes the following Order:

Title, commencement and interpretation

1.—(1) The title of this Order is the Wales Tourist Board (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 and it comes into force on the day after it is made.

(2) In this Order:

the "Assembly" (*y* "*Cynulliad*") means the National Assembly for Wales;

the "Board" (*y* "*Bwrdd*") means the Wales Tourist Board;

"relevant employee" ("*cyflogai perthnasol*") means any person who, immediately before the transfer date, was employed by the Board under a contract of employment; and

"transfer date" ("*dyddiad trosglwyddo*") means 1 April 2006.

Transfer of functions, property, rights and liabilities of the Board to the Assembly

2.—(1) On the transfer date the functions of the Board are transferred to the Assembly in accordance with the provisions of Schedules 1 and 2 which amend the enactments and instruments relating to the Board for the purpose of:

(a) transferring its functions to the Assembly, and

(b) making provision consequential on or incidental or supplementary to the transfer.

(2) On the transfer date there are transferred to and vested in the Assembly by virtue of this paragraph all property, rights and liabilities to which the Board is entitled or subject immediately before that date.

(3) The rights and liabilities referred to in paragraph (2) above include those arising under any contract of employment made between a relevant employee and the Board.

(**1**) 1998 c. 38.

(4) The Transfer of Undertakings (Protection of Employment) Regulations 1981(**2**) apply to the transfer of the functions of the Board to the Assembly whether or not apart from this provision, the discharge of these functions would be treated as an undertaking in the nature of a commercial venture for the purposes of those Regulations.

(5) A certificate issued by the Assembly that any property has been transferred by paragraph (2) is conclusive evidence of the transfer.

(6) Paragraph (2) has effect in relation to property, rights or liabilities to which it applied in spite of any provision (of whatever nature) which would prevent or restrict the transfer of the property, rights or liabilities otherwise than by that paragraph.

Transitional provisions

3.—(1) Nothing in article 2 or Schedules 1 and 2 affects the validity of anything done by or in relation to the Board before its functions are transferred.

(2) There may be continued by or in relation to the Assembly anything (including legal proceedings) which—

(a) relates to any of the functions of the Board or to any property, rights or liabilities transferred by article 2(2), and

(b) is in the process of being done by or in relation to the Board when the said functions are transferred.

(3) Anything which—

(a) was done by the Board for the purpose of or in connection with any of its functions or by the Board for the purpose of or in connection with any property, rights or liabilities transferred by article 2(2); and

(b) is in effect immediately before its functions are transferred,

is to have effect as if done by the Assembly.

(4) The Assembly is substituted for the Board in any instruments, contracts or legal proceedings which relate to—

(a) any of the functions of the Board, and

(b) any property, rights or liabilities transferred by article 2(2),

and which are made or commenced before its functions are transferred.

(5) On the transfer date the obligations of the Board, the Assembly and the Auditor General for Wales referred to below contained in section 6 of the Development of Tourism Act 1969(**3**)will have effect in respect of the financial year 2005 to 2006 only but are otherwise abolished:

(a) the Board's obligation under section 6(1) to prepare a statement of account, save that the obligation is transferred to the Assembly,

(b) the Assembly's obligation under section 6(3) to transmit the statement of account to the Auditor General for Wales, and

(c) the Auditor General for Wales' obligation under section 6(4) to examine and certify the statement of account and lay before the Assembly copies of the statement of account together with a report thereon.

(**2**) S.I. 1981/1794, as amended by the Trade Union Reform and Employment Rights Act 1993 (c. 19) by the Dock Work Act 1989 (c. 13) and by Statutory Instruments 1987/442, 1995/2587, 1998/1658, 1999/1925; 1999/2402 and 1999/2587.
(**3**) 1969 c. 51.

Abolition

4. Upon the transfer of its functions, property, rights and liabilities to the Assembly on the transfer date in accordance with article 2 the Board is to cease to exist.

Winding down

5. The Board must give to the Assembly all the information and do all other things which appear to the Assembly appropriate for the purpose of facilitating the transfer of its functions to the Assembly and its abolition in accordance with this Order.

Amendments to existing enactments

6.—(1) The provisions of the Development of Tourism Act 1969 and the Tourism (Overseas Promotion) (Wales) Act 1992(**4**) in Schedule 1 to this Order are amended in accordance with that schedule on the transfer date.

(2) The enactments specified in Schedule 2 to this Order are amended in accordance with that Schedule on the transfer date.

(3) The amendments to enactments extend to the same extent as the provision in the enactment that is amended.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(**5**).

D. Elis-Thomas
22 November 2005 The Presiding Officer of the National Assembly

(**4**) 1992 c. 26.
(**5**) 1998 p.38.

SCHEDULE 1 Article 6(1)

PART 1

Development of Tourism Act 1969 (c. 51)

The Development of Tourism Act 1969 is amended as follows.

1. In section 1 (Establishment of British Tourist Authority, English Tourist Board, Scottish Tourist Board and Wales Tourist Board)—

(1) in subsection (1), for "four" substitute "three" and for ", the Scottish Tourist Board and the Wales Tourist Board" substitute "and the Scottish Tourist Board";

(2) in paragraph (b) of subsection (2), for "the chairman of the Wales Tourist Board" substitute "a person appointed by the National Assembly for Wales";

(3) in subsection (3)—

(a) for "Trade," substitute "Trade and", and

(b) omit ", and the Wales Tourist Board shall consist of a chairman and not more than six other members appointed by the Secretary of State for Wales";

(4) in subsection (6), for "Trade," substitute "Trade and" and omit "and, in relation to the Wales Tourist Board, the Secretary of State for Wales"; and

(5) in the heading, for ", Scottish Tourist Board and Wales Tourist Board" substitute "and Scottish Tourist Board".

2. In section 2 (General functions and powers)—

(1) in subsection (1), for "Wales Tourist Board" substitute "National Assembly for Wales";

(2) in subsection (2), for "and (4)" substitute ", (4) and (4A)" and after "each Tourist Board" insert "and the National Assembly for Wales" and in paragraph (e) after "Board" insert "or the National Assembly for Wales";

(3) in subsection (3), after "Tourist Boards" insert "or the National Assembly for Wales";

(4) after subsection (4) add—

"(4A) The National Assembly for Wales shall also have no such power under this Act, except as provided by sections 3 and 4A.";

(5) in subsection (5), for "Wales Tourist Board" substitute "National Assembly for Wales", after "Boards" in the first and second place it occurs insert "or the National Assembly for Wales" and in the third place it occurs insert "and the National Assembly for Wales";

(6) in subsection (6)—

(a) after "each Tourist Board" insert "and the National Assembly for Wales", and

(b) after "other Tourist Boards" insert "and, as appropriate, the National Assembly for Wales";

(7) after subsection (7) add—

"(7A) The National Assembly for Wales may charge for its services and receive contributions towards its expenses in carrying out any of its functions under this Act as read with the Tourism (Overseas Promotion) (Wales) Act 1992"(**6**); and

(8) after subsection (8) add—

(**6**) 1992 c. 26