Order laid before the Assembly under Article 8(4) of the Departments (Northern Ireland) Order 1999, and subject to affirmative resolution procedure of the Assembly

STATUTORY RULES OF NORTHERN IRELAND

2016 No. 76

NORTHERN IRELAND DEPARTMENTS

The Departments (Transfer of Functions) Order (Northern Ireland) 2016

Made - - - - 25th February 2016

Coming into operation in accordance with Article 1

The First Minister and deputy First Minister acting jointly, in exercise of the powers conferred by Article 8 of the Departments (Northern Ireland) Order 1999 (**1**), make the following Order.

Citation and commencement

1.—(1) This Order may be cited as the Departments (Transfer of Functions) Order (Northern Ireland) 2016.

(2) Subject to paragraph (3), this Order shall come into operation immediately before the transfer date.

(3) Article 11 and Schedule 6 shall come into operation on the transfer date.

Interpretation

2.—(1) In this Order—

"department" includes the Minister of the department (or in the case of OFMDFM the First Minister and the deputy First Minister);

"instrument" includes any judgment, decree, order, award, deed, contract, regulation, byelaw, certificate or other document;

"OFMDFM" means the Office of the First Minister and deputy First Minister;

"transfer date" means the date on which section 1 of the Departments Act (Northern Ireland) 2016 comes into operation;

"transferor" and "transferee", in relation to any functions transferred by this Order, mean respectively the department from which and the department to which the functions are transferred.

(**1**) SI 1999/283 (N.I. 1)

(2) Any reference in this Order to a statutory provision under or for the purposes of which a function is transferred by this Order (a "transferring provision") includes a reference to a statutory provision passed or made before the transfer date which—

(a) amends or extends the transferring provision; or

(b) confers functions on the transferor for the purposes of the transferring provision.

Transfer of certain functions of OFMDFM and of the First Minister and deputy First Minister acting jointly

3.—(1) The functions which immediately before the transfer date are exercisable by OFMDFM—

(a) under or for the purposes of the statutory provisions set out in Part 1 of Schedule 1 are transferred as from that date to the Department of Agriculture, Environment and Rural Affairs;

(b) under or for the purposes of the statutory provisions set out in Part 2 of that Schedule are transferred as from that date to the Department for Communities;

(c) under or for the purposes of the statutory provisions set out in Part 3 of that Schedule are transferred as from that date to the Department of Education;

(d) under or for the purposes of the statutory provisions set out in Part 4 of that Schedule are transferred as from that date to the Department for Infrastructure;

(e) under or for the purposes of the statutory provisions set out in Part 5 of that Schedule are transferred as from that date to the Department of Justice.

(2) The functions which immediately before the transfer date are exercisable by the First Minister and the deputy First Minster acting jointly under or for the purposes of the following statutory provisions are transferred as from that date to the Department for Communities—

(a) Article 57(2) of the Sex Discrimination (Northern Ireland) Order 1976(**2**);

(b) Article 24(1)(b) and (5) of the Commissioner for Children and Young People (Northern Ireland) Order 2003(**3**);

(c) section 21(1)(b) and (5) of the Commissioner for Older People Act (Northern Ireland) 2011(**4**).

Transfer of certain functions of Department of Agriculture and Rural Development

4. The functions which immediately before the transfer date are exercisable by the Department of Agriculture and Rural Development under or for the purposes of the statutory provisions set out in Schedule 2 are transferred as from that date to the Department for Infrastructure.

Transfer of functions of Department of Culture, Arts and Leisure

5.—(1) The functions which immediately before the transfer date are exercisable by the Department of Culture, Arts and Leisure—

(a) under or for the purposes of the statutory provisions set out in Part 1 of Schedule 3 are transferred as from that date to the Department of Agriculture, Environment and Rural Affairs;

(b) under or for the purposes of the statutory provisions set out in Part 2 of that Schedule are transferred as from that date to the Department for Infrastructure;

(**2**) S.I. 1976/1042 (N.I. 15)
(**3**) S.I. 2003/439 (N.I. 11)
(**4**) 2011 c. 1 (N.I.)

(c) under or for the purposes of any other statutory provision are transferred as from that date to the Department for Communities.

(2) The functions transferred to the Department for Communities under paragraph (1) include the functions of the Department of Culture, Arts and Leisure under or for the purposes of the Government Resources and Accounts Act (Northern Ireland) 2001(**5**) in relation to the financial year ending on 31st March 2016.

Transfer of functions of Department for Employment and Learning

6.—(1) The functions which immediately before the transfer date are exercisable by the Department for Employment and Learning—

(a) under or for the purposes of the statutory provisions set out in Part 1 of Schedule 4 are transferred as from that date to the Department for Communities;

(b) under or for the purposes of the statutory provisions set out in Part 2 of that Schedule are, subject to paragraph (2), transferred to the Department for Communities and the Department for the Economy;

(c) under or for the purposes of any other statutory provision are transferred as from that date to the Department for the Economy.

(2) The functions transferred to the Department for Communities and the Department for the Economy under paragraph (1)(b) are exercisable by each Department or by both Departments jointly.

(3) The functions transferred to the Department for the Economy under paragraph (1) include the functions of the Department for Employment and Learning under the Government Resources and Accounts Act (Northern Ireland) 2001 in relation to the financial year ending on 31st March 2016.

Transfer of certain functions of Department of Enterprise, Trade and Investment to Department for Communities

7. The functions which immediately before the transfer date are exercisable by the Department of Enterprise, Trade and Investment under or for the purposes of section 4 of the Debt Relief Act (Northern Ireland) 2010(**6**) are transferred as from that date to the Department for Communities.

Transfer of functions of Department of the Environment

8.—(1) The functions which immediately before the transfer date are exercisable by the Department of the Environment—

(a) under or for the purposes of the statutory provisions set out in Part 1 of Schedule 5 are transferred as from that date to the Department for Communities;

(b) under or for the purposes of the statutory provisions set out in Part 2 of that Schedule are transferred as from that date to the Department for Infrastructure;

(c) under or for the purposes of any other statutory provision are transferred as from that date to the Department of Agriculture, Environment and Rural Affairs.

(2) The functions transferred to the Department of Agriculture, Environment and Rural Affairs under paragraph (1) include the functions of the Department of the Environment under or for the purposes of the Government Resources and Accounts Act (Northern Ireland) 2001 in relation to the financial year ending on 31st March 2016.

(**5**) 2001 c. 6 (N.I.)
(**6**) 2010 c. 16 (N.I.)

References in statutory provisions, etc.

9.—(1) In the construction and for the purposes of any statutory provision or instrument passed, made or issued before the transfer date, any reference to, or which is to be construed as a reference to, the transferor shall, so far as may be necessary for the purpose of the transfer of functions by this Order, be construed as, or as including, a reference to the transferee.

(2) The transfer of functions by this Order shall not affect the validity of any instrument made or issued or any other act done by, or in relation to, the transferor before the transfer day; and any such instrument or act shall, if in force immediately before that date, continue in force to the same extent and subject to the same provisions as if it had been duly made, issued or done by, or in relation to, the transferee.

(3) Anything (including any legal proceedings) in the process of being done by or in relation to the transferor immediately before the transfer date may, so far as it relates to any function transferred by this Order, be continued by or in relation to the transferee.

Transfer of assets and liabilities

10. All assets and liabilities enjoyed or incurred by the transferor immediately before the transfer date in connection with any functions transferred by this Order shall on that date be transferred to, and by virtue of this Order vest in, the transferee.

Amendments

11.—(1) Schedule 6 (amendments) shall have effect.

(2) Nothing in Schedule 6 affects the generality of Article 9 or 10.

Dated this 25th day of February 2016.

Arlene Foster
First Minister
Martin McGuinness
deputy First Minister

SCHEDULES

SCHEDULE 1

Article 3

FUNCTIONS TRANSFERRED FROM OFMDFM

PART 1

FUNCTIONS TRANSFERRED TO DEPARTMENT OF AGRICULTURE, ENVIRONMENT AND RURAL AFFAIRS

Northern Ireland (Miscellaneous Provisions) Act 2006, section 25(2)(a) and (3)(c)

Financial Provisions Act (Northern Ireland) 2009, section 5

Planning Act (Northern Ireland) 2011, sections 1(3)(a)(ii) and 5(2)(a)(i)

PART 2

FUNCTIONS TRANSFERRED TO DEPARTMENT FOR COMMUNITIES

Equal Pay Act (Northern Ireland) 1970

Sex Discrimination (Northern Ireland) Order 1976

Employment (Miscellaneous Provisions) (Northern Ireland) Order 1990

Disability Discrimination Act 1995

Equality (Disability, etc.) (Northern Ireland) Order 2000

Commissioner for Children and Young People (Northern Ireland) Order 2003, Articles 4 and 16(11), paragraphs 4, 5, 10, 11 and 12 of Schedule 2 and paragraph 2(9) of Schedule 3

Employment Equality (Sexual Orientation) Regulations (Northern Ireland) 2003

Employment Equality (Age) Regulations (Northern Ireland) 2006, regulation 37

Equality Act 2006

Disability Discrimination (Northern Ireland) Order 2006

Child Poverty Act 2010

Commissioner for Older People Act (Northern Ireland) 2011, except section 1(3)

PART 3

FUNCTIONS TRANSFERRED TO DEPARTMENT OF EDUCATION

Financial Provisions Act (Northern Ireland) 2009, section 4

Children’s Services Co-operation Act (Northern Ireland) 2015