

2011 No. 2436

MINISTERS OF THE CROWN

**The Transfer of Functions (Her Majesty's Land Registry, the
Meteorological Office and Ordnance Survey) Order 2011**

Made - - - - - *12th October 2011*
Laid before Parliament *19th October 2011*
Coming into force - - - *9th November 2011*

At the Court at Buckingham Palace, the 12th day of October 2011

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^(a), 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 Transfer of Functions (Her Majesty's Land Registry, the Meteorological Office and Ordnance Survey) Order 2011.

(2) This Order comes into force on 9th November 2011.

Interpretation

2.—(1) For the purposes of this Order, a function is a “former LC function” so far as—

- (a) it is transferred by article 3(1), or
- (b) it was entrusted to the Lord Chancellor immediately before 18th July 2011 and has before the making of this Order been entrusted to the Secretary of State for Business, Innovation and Skills.

(2) For the purposes of this Order, a function is a “former MoD function” so far as—

- (a) it is transferred by article 3(2), or
- (b) it was entrusted to the Secretary of State for Defence immediately before 18th July 2011 and has before the making of this Order been entrusted to the Secretary of State for Business, Innovation and Skills.

(3) For the purposes of this Order, a function is a “former DCLG function” so far as it was entrusted to the Secretary of State for Communities and Local Government immediately before 18th July 2011 and has before the making of this Order been entrusted to the Secretary of State for Business, Innovation and Skills.

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

Transfers of functions

3.—(1) The functions of the Lord Chancellor under or by virtue of the provisions mentioned in Schedule 1 are transferred to the Secretary of State.

(2) The function of the Secretary of State for Defence under article 3 of the Meteorological Office Trading Fund Order 1996^(a) (source of loans) is transferred to the Secretary of State for Business, Innovation and Skills.

Transfers of property, rights and liabilities

4.—(1) There are transferred to the Secretary of State for Business, Innovation and Skills—

- (a) all property, rights and liabilities to which the Lord Chancellor is entitled or subject at the coming into force of this Order in connection with any former LC function,
- (b) all property, rights and liabilities to which the Secretary of State for Defence is entitled or subject at the coming into force of this Order in connection with any former MoD function, other than property, rights and liabilities transferred by paragraph (2), and
- (c) all property, rights and liabilities to which the Secretary of State for Communities and Local Government is entitled or subject at the coming into force of this Order in connection with any former DCLG function, other than excepted property, rights and liabilities.

(2) There are transferred to the Secretary of State for Communities and Local Government—

- (a) all immovable property to which the Secretary of State for Defence is entitled or subject at the coming into force of this Order in connection with any former MoD function, and
- (b) all rights and liabilities to which the Secretary of State for Defence is entitled or subject at that time in connection with that property.

(3) For the purposes of paragraph (1)(c), “excepted property, rights and liabilities” means—

- (a) all immovable property to which the Secretary of State for Communities and Local Government is entitled or subject at the coming into force of this Order in connection with any former DCLG function, and
- (b) all rights and liabilities to which that Secretary of State is entitled or subject at that time in connection with that property.

Supplementary

5.—(1) This article applies to—

- (a) a former LC function,
- (b) a former MoD function,
- (c) a former DCLG function, and
- (d) anything transferred by article 4.

(2) In this article “the transferor” means—

- (a) in relation to a former LC function or anything transferred by article 4(1)(a), the Lord Chancellor,
- (b) in relation to a former MoD function or anything transferred by article 4(1)(b) or (2), the Secretary of State for Defence, and
- (c) in relation to a former DCLG function or anything transferred by article 4(1)(c), the Secretary of State for Communities and Local Government.

(3) In this article “the transferee” means—

(a) S.I. 1996/774.

- (a) in relation to a former LC function, a former MoD function, a former DCLG function or anything transferred by article 4(1), the Secretary of State for Business, Innovation and Skills, and
- (b) in relation to anything transferred by article 4(2), the Secretary of State for Communities and Local Government.

(4) This Order does not affect the validity of anything done (or having effect as if done) by or in relation to any of the transferors before the coming into force of this Order.

(5) 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 anything to which this article applies, be continued by or in relation to the transferee.

(6) Anything done (or having effect as if done) by or in relation to the transferor in connection with anything to which this article applies has effect, so far as is necessary for continuing its effect after the coming into force of this Order, as if done by or in relation to the transferee.

(7) Documents or forms printed for use in connection with a former LC function, a former MoD function or a former DCLG 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 transferee.

(8) Any enactment or instrument passed or made before the coming into force of this Order has effect—

- (a) so far as is necessary for the purposes of or in consequence of the transfer to the Secretary of State of any former LC function under article 3(1) as if references to the transferor (and references which are to be read as references to the transferor) were or included references to the Secretary of State, and
- (b) so far as is necessary for the purposes of or in consequence of—
 - (i) the transfer or entrusting to the transferee of any other former LC function, any former MoD function or any former DCLG function, or
 - (ii) the transfer of anything by article 4,as if references to the transferor (and references which are to be read as references to the transferor) were or included references to the transferee.

(9) In paragraph (8) “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.

(10) In paragraphs (4) to (8) references to the transferor include references to the department or an officer of the transferor, and references to the transferee or the Secretary of State are to be read accordingly.

Consequential amendments

- 6. Schedule 2 has effect.

Judith Simpson
Clerk of the Privy Council

SCHEDULES

SCHEDULE 1

Article 3(1)

PROVISIONS REFERRED TO IN ARTICLE 3(1)

1. Section 9(9) of the Agricultural Credits Act 1928(a) (power to make regulations about the registration of agricultural charges).
2. Section 16(1) of the Land Charges Act 1972(b) (power to make general rules for carrying that Act into effect).
3. The provisions of the Land Registration Act 2002(c), excluding—
 - (a) Part 11 (adjudication),
 - (b) section 127(2) (nomination of members of the Rule Committee)(d), and
 - (c) section 136(2) (commencement power).
4. Section 65 of the Commonhold and Leasehold Reform Act 2002(e) (power to make rules about registration procedure).
5. The following provisions of the Land Registration Rules 2003(f)—
 - (a) rule 216(1)(b)(ii) (power to appoint days on which land registry not open to the public)(g);
 - (b) the definition of “working day” in rule 217(1) (power to define “working day”)(h).
6. Regulation 2(1) and (4) of the Land Registration (Acting Chief Land Registrar) Regulations 2003(i) (functions in relation to the acting Chief Land Registrar).
7. The definition of “working day” in rule 9(3) of the Land Registration (Network Access) Rules 2008(j) (power to define “working day”).

(a) 1928 c. 43.

(b) 1972 c. 61.

(c) 2002 c. 9.

(d) Section 127(2) was amended by the Constitutional Reform Act 2005 (c. 4), Schedule 4, paragraph 302.

(e) 2002 c. 15.

(f) S.I. 2003/1417.

(g) Paragraph (1) of rule 216 was substituted by the Land Registration (Amendment) Rules 2008 (S.I. 2008/1919), Schedule 1, paragraph 73(a).

(h) The definition of “working day” in rule 217(1) was inserted by the Land Registration (Amendment) Rules 2008 (S.I. 2008/1919), Schedule 1, paragraph 74(e).

(i) S.I. 2003/2281.

(j) S.I. 2008/1748.

CONSEQUENTIAL AMENDMENTS

PART 1

PRIMARY LEGISLATION

Agricultural Credits Act 1928 (c. 43)

1. In section 9(9) of the Agricultural Credits Act 1928 (power to make regulations about the registration of agricultural charges), for “Lord Chancellor” substitute “Secretary of State”.

Public Records Act 1958 (c. 51)

2. In Schedule 1 to the Public Records Act 1958 (definition of public records), in Part 1 of the Table at the end of paragraph 3, in the entry for the Meteorological Office(a), for “Air Ministry” substitute “Department for Business, Innovation and Skills”.

Land Charges Act 1972 (c. 61)

3. In section 16(1) of the Land Charges Act 1972 (power to make general rules for carrying that Act into effect), for “Lord Chancellor” substitute “Secretary of State”.

Land Registration Act 2002 (c. 9)

4.—(1) The Land Registration Act 2002 is amended as follows.

(2) In the following provisions, for “Lord Chancellor” (in each place) substitute “Secretary of State”—

- (a) section 5(1) and (4) (power to extend section 4);
- (b) section 62(9) (power by order to amend section 62(4) or (5));
- (c) section 80(4) (power by order to amend section 80);
- (d) section 93(5) (power to require simultaneous registration);
- (e) section 99(3) (duty to appoint Chief Land Registrar);
- (f) section 100(2) and (3) (power to make provision about conduct of business);
- (g) section 101(1) and (3) (functions relating to the Chief Land Registrar’s annual report);
- (h) section 102 (power to make provision about fees);
- (i) section 118 (power to reduce qualifying term);
- (j) section 121(1) (power to make provision about forwarding applications)(b);
- (k) section 127(1) and (3) (power to make land registration rules and to nominate a member of the Rule Committee);
- (l) section 130(b) (power to apply the Act to internal waters);
- (m) section 134(1) (power to make transitional provision);
- (n) paragraph 11 of Schedule 5 (power to make rules regarding the land registry network);
- (o) paragraphs 1(1) and (2) and 2 of Schedule 7 (functions in relation to the Chief Land Registrar).

(a) By virtue of the Defence (Transfer of Functions) Act 1964 (c. 15), section 3(2) the reference in the entry for the Meteorological Office to the Air Ministry has effect as a reference to the Ministry of Defence.

(b) Section 121 was substituted by the Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), Schedule 1, paragraph 193(1) and (3).

(3) In section 128 (rules, regulations and orders), in subsections (1) and (2), after “Lord Chancellor” insert “or the Secretary of State”.

Commonhold and Leasehold Reform Act 2002 (c. 15)

5. In section 65(1) of the Commonhold and Leasehold Reform Act 2002 (power to make rules about registration procedure), for “Lord Chancellor” substitute “Secretary of State”.

PART 2

SECONDARY LEGISLATION

Social Fund Cold Weather Payments (General) Regulations 1988 (S.I. 1988/1724)

6. In regulation 1(2) of the Social Fund Cold Weather Payments (General) Regulations 1988, in the definition of “the Meteorological Office”(a), for “Ministry of Defence” substitute “Department for Business, Innovation and Skills”.

Meteorological Office Trading Fund Order 1996 (S.I. 1996/774)

7.—(1) The Meteorological Office Trading Fund Order 1996 (which relates to a fund that exists for operations that have become operations of the Department for Business, Innovation and Skills by virtue of the entrusting of former MoD functions to the Secretary of State for Business, Innovation and Skills) is amended as follows.

(2) In article 3 (source of loans), for “Secretary of State for Defence” substitute “Secretary of State for Business, Innovation and Skills”.

(3) In Schedule 1 (funded operations), in paragraph (a), for “Ministry of Defence” substitute “Department for Business, Innovation and Skills”.

Land Registration Rules 2003 (S.I. 2003/1417)

8.—(1) The Land Registration Rules 2003 are amended as follows.

(2) In rule 216(1)(b)(ii) (power to appoint days on which land registry not open to the public), for “Lord Chancellor” substitute “Secretary of State”.

(3) In rule 217(1) (interpretation), in the definition of “working day”, for “Lord Chancellor” substitute “Secretary of State”.

Land Registration (Acting Chief Land Registrar) Regulations 2003 (S.I. 2003/2281)

9. In regulation 2(1) and (4) of the Land Registration (Acting Chief Land Registrar) Regulations 2003 (functions in relation to the acting Chief Land Registrar), for “Lord Chancellor” (in each place) substitute “Secretary of State”.

Home Information Pack (No.2) Regulations 2007 (S.I. 2007/1667)

10. In regulation 2(1) of the Home Information Pack (No.2) Regulations 2007 (interpretation), in the definition of “the Chief Land Registrar”, for “Lord Chancellor” substitute “Secretary of State”.

(a) The definition of “the Meteorological Office” in regulation 1(2) was inserted by the Social Fund Cold Weather Payments (General) Amendment Regulations 1996 (S.I. 1996/2544), regulation 2(1) and (3).

Land Registration (Network Access) Rules 2008 (S.I. 2008/1748)

11. In rule 9(3) of the Land Registration (Network Access) Rules 2008 (giving of notice), in the definition of “working day”, for “Lord Chancellor” substitute “Secretary of State”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order in Council is made under sections 1 and 2 of the Ministers of the Crown Act 1975. It makes provision in connection with the transfer of functions in connection with Her Majesty's Land Registry, the Meteorological Office and Ordnance Survey to the Secretary of State for Business, Innovation and Skills. See the Prime Minister's written statement to Parliament dated 18th July 2011 (reported in Hansard (House of Commons) at column 87WS; available at www.parliament.uk).

Article 3(1) and Schedule 1 transfer to the Secretary of State certain functions of the Lord Chancellor in respect of the Land Registry. They will be entrusted to the Secretary of State for Business, Innovation and Skills. Article 3(2) transfers to the Secretary of State for Business, Innovation and Skills a function of the Secretary of State for Defence under article 3 of the Meteorological Office Trading Fund Order 1996.

Article 4 makes provision for the transfer of property, rights and liabilities in connection with the transfer of functions under article 3 and the entrusting of functions in connection with Her Majesty's Land Registry, the Meteorological Office and Ordnance Survey to the Secretary of State for Business, Innovation and Skills. All the property, rights and liabilities transfer to that Secretary of State, except that immovable property and associated rights and liabilities are transferred to, or retained by, the Secretary of State for Communities and Local Government (who under current practice holds immovable property for other departments).

Article 5 makes supplementary provision.

Article 6 and Schedule 2 make consequential amendments to Acts of Parliament and subordinate legislation.

Nothing in this Order alters the functions of the Welsh Ministers, the Scottish Ministers or the devolved authorities in Northern Ireland.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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£5.75

E1554 10/2011 111554T 19585

