
DRAFT STATUTORY INSTRUMENTS

2006 No.

CONSTITUTIONAL LAW

DEVOLUTION, WALES

**The National Assembly for Wales (Transfer of Functions) (No.2)
Order 2006**

Made - - - - - [] 2007

Coming into force - - - - - [] 2007

At the Court at Buckingham Palace, the ** day of ** 2007

Present,

The Queen's Most Excellent Majesty in Council

The draft of this Order having been laid before, and approved by resolution of, each House of Parliament and the National Assembly for Wales:

Her Majesty, in exercise of the power conferred on Her by sections 22 and 24(1) of, and paragraphs 1 and 3 of Schedule 3 to, the Government of Wales Act 1998 (a), is pleased, by and with the advice of Her Privy Council, to order, as follows—

Citation, commencement and interpretation

1.—(1) This Order may be cited as the National Assembly for Wales (Transfer of Functions) (No. 2) Order 2006.

(2) This Order shall come into force on the day after it is made.

(3) In this Order—

“the 1999 transfer order” means the National Assembly for Wales (Transfer of Functions) Order 1999(b);

“the 1920 Act” means the Census Act 1920(c); and

“the Assembly” means the National Assembly for Wales.

(a) 1998 c.38.

(b) S.I. 1999/672, to which a relevant amendment has been made by S.I. 2000/253.

(c) 1920 c. 41, to which relevant amendment were made by S.I. 1996/273 and the Statute Law (Repeals) Act 1993 (c.50).

Variation of the 1999 transfer order

2. The Schedule has effect.

Transfer of Functions

3. The functions of the Chancellor of the Exchequer under section 3 of the 1920 Act are, so far as exercisable in relation to Wales, transferred to the Assembly.

Minister of the Crown function exercisable after Assembly consultation

4. It is directed that no recommendation by a Minister of the Crown shall be made to Her Majesty in Council to make an Order in Council under section 1 of the 1920 Act directing that a census be taken for Wales, or any part of Wales, (whether or not it is also recommended that a census be taken for any other part of Great Britain) unless the Assembly has been consulted about the making of that recommendation.

Transfer of property

5. The provisions of section 23(1) of the Government of Wales Act 1998 do not apply to any documentary or electronic records to which a Minister of the Crown is entitled, at the coming into force of this Order, in connection with any function exercisable by the Minister which is transferred by this Order.

A. K. Galloway
Clerk of the Privy Council

SCHEDULE

Article 2

VARIATION OF THE 1999 TRANSFER ORDER

In Schedule 1 to the 1999 transfer order—

- (a) in the entry relating to the Environmental Protection Act 1990 (c.43), in sub-paragraph (b), after “,156” insert “(other than as it applies to Part 2 of the Act)”, and
- (b) in the second paragraph of the entry for the Water Industry Act 1991 (c.56) **(a)**—
 - (i) after “39,”, there is inserted “47(2)(g),”,
 - (ii) after “51A,”, there is inserted “53(2)(c), 55(4),” and
 - (iii) after “65,”, there is inserted “66A (6),”.

(a) The entry was substituted by S.I.2000/253.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order varies the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) (“the 1999 Order”) and provides for certain functions under the Census Act 1920 (c.41) to be transferred to the National Assembly for Wales.

Article 2 of and the Schedule to this Order vary two entries in Schedule 1 to the 1999 Order. Firstly, the entry relating to the Environmental Protection Act 1990 (c.43) is varied so that the Assembly can exercise functions under section 156 of that Act but only in relation to Part 2 of that Act. Section 156 enables the Secretary of State to make regulations modifying certain provisions of the Act to give effect to obligations and rights under Community law and international agreements. Part 2 of the Act concerns waste disposal. Secondly, the entry relating to the Water Industry Act 1991 (c.56) is varied so that the power [conferred by the provisions cited in subparagraph (b) in the Schedule to this Order,] to prescribe requirements relating to water fittings by reference to regulations made under section 74 of the Water Industry Act 1991, will be transferred to the National Assembly for Wales “in relation to any water or sewerage undertaker whose area is wholly or mainly in Wales (but not in relation to any licensed water suppliers)”, rather than being transferred “in relation to Wales”. This harmonizes the basis upon which those functions are transferred to the National Assembly for Wales with the basis upon which the associated regulation-making function under section 74 of the Water Industry Act 1991 is presently transferred to the National Assembly for Wales.

Formatted: Not Highlight

Article 3 transfers the regulation – making functions of the Chancellor of the Exchequer under section 3 of the Census Act 1920, so far as exercisable in relation to Wales, to the National Assembly for Wales. Those functions were transferred to the Chancellor of the Exchequer by the Transfer of Functions (Registration and Statistics) Order 1996 (S.I. 1996/273) which was made under section 1 of the Ministers of the Crown Act 1975 (c.26).

Article 4 directs that no recommendation shall be made to Her Majesty in Council to make an Order in Council under section 1 of the Census Act 1920, directing that a census be taken for Wales, or any part of Wales, (whether or not it is also recommended that a census be taken for any other part of Great Britain) unless the Assembly has been consulted about the making of that recommendation.

Article 5 prevents the transfer to the Assembly, of documentary or electronic records connected with functions included in this Order, which would otherwise take place by operation of section 23 of the Government of Wales Act 1998.