
STATUTORY INSTRUMENTS

2003 No. 1887

The Secretary of State for Constitutional Affairs Order 2003

Citation and commencement

- 1.—(1) This Order may be cited as the Secretary of State for Constitutional Affairs Order 2003.
- (2) This Order comes into force on 19th August 2003.

Interpretation

2.—(1) In this Order “instrument”, without prejudice to the generality of that expression, includes in particular Royal Charters, Royal Warrants, Orders in Council, Letters Patent, judgments, decrees, orders, rules, regulations, schemes, bye-laws, awards, contracts and other agreements, memoranda and articles of association, certificates, deeds and other documents.

(2) In this Order a reference to a function of a Minister is to be read, in the case of a function which is exercisable by him jointly with another person or is otherwise shared by him with another person, as a reference to his share in that function.

(3) Any provision of this Order for the transfer of functions of the Lord Chancellor to the Secretary of State is to be read, in relation to functions exercisable by the Lord Chancellor concurrently with the Secretary of State, as providing that the functions are to cease to be exercisable by the Lord Chancellor; and references in this Order to the transfer of functions are to be read accordingly.

(4) Any reference in this Order to the functions of a Minister under an enactment includes a reference to the functions of that Minister under an instrument having effect under that enactment.

Incorporation of the Secretary of State for Constitutional Affairs

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

(2) The corporate seal of the Secretary of State for Constitutional Affairs shall—

- (a) 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) be officially and judicially noticed.

(3) Every document purporting to be an instrument made or issued by the Secretary of State for Constitutional Affairs and to be—

- (a) sealed with his corporate seal authenticated in the manner provided by paragraph (2), or
- (b) signed or executed by a person authorised by a Secretary of State to act in that behalf,

shall be received in evidence and 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 Constitutional Affairs that any instrument purporting to be made or issued by him was so made or issued shall be conclusive evidence of that fact.

(5) The Documentary Evidence Act 1868(1) shall apply in relation to the Secretary of State for Constitutional Affairs—

- (a) as if references to orders and regulations 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 from the Lord Chancellor

4.—(1) The functions of the Lord Chancellor under the enactments listed in Schedule 1 are transferred to the Secretary of State.

(2) The functions transferred by this article include functions under any provision not yet in force at the time this Order is made (and a reference in Schedule 1 to an enactment includes a reference to the enactment as amended by an Act or subordinate legislation passed or made before that time, but not yet in force).

Transfer of property, rights and liabilities from the Lord Chancellor

5. 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 the functions transferred by article 4 are transferred to the Secretary of State for Constitutional Affairs.

Transfers from the Lord Chancellor: supplementary

6.—(1) This Order does not affect the validity of anything done (or having effect as if done) by or in relation to the Lord Chancellor before the coming into force of this Order.

(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 Lord Chancellor may, so far as it relates to anything transferred by article 4 or 5, be continued by or in relation to the Secretary of State for Constitutional Affairs.

(3) Anything done (or having effect as if done) by or in relation to the Lord Chancellor in connection with anything transferred by article 4 or 5 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 Constitutional Affairs.

(4) Documents or forms printed for use in connection with the functions transferred by article 4 may be used in connection with those functions even though they contain, or are to be read as containing, references to the Lord Chancellor, the Lord Chancellor's Department or an officer of the Lord Chancellor; 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 Constitutional Affairs, the Department for Constitutional Affairs or an officer of the Secretary of State for Constitutional Affairs (as appropriate).

(5) 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 article 4, as if references to (and references which are to be read as references to) the Lord Chancellor, the Lord Chancellor's Department or an officer of the Lord Chancellor were references to the Secretary of State, his department or an officer of his (as appropriate), and
- (b) so far as is necessary for the purposes of or in consequence of article 5, as if references to (and references which are to be read as references to) the Lord Chancellor, the Lord

Chancellor's Department or an officer of the Lord Chancellor were references to the Secretary of State for Constitutional Affairs, the Department for Constitutional Affairs or an officer of the Secretary of State for Constitutional Affairs (as appropriate).

Transfer of functions from the First Secretary of State

7. The functions of the First Secretary of State under section 28 of the Courts Act 1971(2) are transferred to the Secretary of State.

Transfer from the First Secretary of State: supplementary

8.—(1) This Order does not affect the validity of anything done (or having effect as if done) by or in relation to the First Secretary of State before the coming into force of this Order.

(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 First Secretary of State may, so far as it relates to anything transferred by article 7, be continued by or in relation to the Secretary of State for Constitutional Affairs.

(3) Anything done (or having effect as if done) by or in relation to the First Secretary of State in connection with 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 Constitutional Affairs.

(4) Documents or forms printed for use in connection with the functions transferred by article 7 may be used in connection with those functions even though they contain, or are to be read as containing, references to the First Secretary of State, the Office of the Deputy Prime Minister or an officer of the First Secretary of State; 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 Constitutional Affairs, the Department for Constitutional Affairs or an officer of the Secretary of State for Constitutional Affairs (as appropriate).

(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 article 7, as if references to (and references which are to be read as references to) the First Secretary of State, the Office of the Deputy Prime Minister or an officer of the First Secretary of State were references to the Secretary of State, his department or an officer of his (as appropriate).

Consequential amendments

9. Schedule 2 (consequential amendments) has effect.

A.K. Galloway
Clerk of the Privy Council