

2012 No. 2747

MINISTERS OF THE CROWN

The Transfer of Functions (Sea Fisheries) Order 2012

Made - - - - *7th November 2012*

Laid before Parliament *14th November 2012*

Coming into force - - *5th December 2012*

At the Court at Buckingham Palace, the 7th day of November 2012

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred by section 1 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 (Sea Fisheries) Order 2012.
- (2) This Order comes into force on 5th December 2012.

Interpretation

2. In this Order any reference to the Secretary of State concerned with sea fishing in Northern Ireland includes the Secretary of State concerned with the sea fishing industry in Northern Ireland (and any similar reference).

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

Transfer of functions

3.—(1) The functions which are exercisable by the Secretary of State for Environment, Food and Rural Affairs and the Secretary of State concerned with sea fishing in Northern Ireland jointly under or by virtue of the following enactments^(a) are transferred to the Secretary of State—

- (a) the Sea Fish (Conservation) Act 1967^(b) except sections 4(6C) and (6D)^(c), 4AA^(d), 6^(e) and 8^(f);
- (b) section 5 of the Sea Fisheries Act 1968^(g);
- (c) section 2 of the Fishery Limits Act 1976^(h);
- (d) section 30(2) of the Fisheries Act 1981⁽ⁱ⁾;
- (e) section 1 of the British Fishing Boats Act 1983^(j).

(2) The functions which are exercisable by the Secretary of State for Environment, Food and Rural Affairs and the Secretary of State concerned with sea fishing in Northern Ireland jointly under or by virtue of section 6 or 8 of the Sea Fish (Conservation) Act 1967 are transferred to the Secretary of State for Environment, Food and Rural Affairs.

Transfer of rights and liabilities

4. There are transferred to the Secretary of State for Environment, Food and Rural Affairs all rights and liabilities to which the Secretary of State concerned with sea fishing in Northern Ireland is entitled or subject at the coming into force of this Order in connection with a function transferred by article 3.

Supplementary

5.—(1) This Order does not affect the validity of anything done (or having effect as if done) by or in relation to the transferor 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 transferor may, so far as it relates to a transferred matter, be continued by or in relation to the transferee.

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- (a) The specified enactments confer functions on “the Ministers”, acting jointly. Functions of the Ministers in relation to Scotland were transferred to the Scottish Ministers by section 53(1) of the Scotland Act 1998 (c.46). Functions of the Ministers under the specified enactments in relation to Wales were transferred to the National Assembly for Wales and then transferred from that body to the Welsh Ministers: see article 2(a) of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c.32). Functions of the Secretaries of State concerned with sea fishing or the sea fishing industry in Scotland and Wales were transferred to the Minister of Agriculture, Fisheries and Food by article 2(1) of the Transfer of Functions (Agriculture and Fisheries) Order 2000 (S.I. 2000/1812). Functions of that Minister and the Secretary of State concerned with sea fishing or the sea fishing industry in Northern Ireland were transferred by article 2(5) of the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794) to the Secretary of State for Environment, Food and Rural Affairs and the Secretary of State concerned with sea fishing or the sea fishing industry in Northern Ireland. Functions of the Ministers under the specified enactments in relation to Northern Ireland were transferred to the Department of Agriculture and Rural Development in Northern Ireland by the Sea Fisheries (Northern Ireland) Order 2002 (S.I. 2002/790).
 - (b) 1967 c. 84.
 - (c) Subsections (6C) and (6D) of section 4 were inserted by the Sea Fish (Conservation) Act 1992 (c. 60), section 1(3).
 - (d) Section 4AA was inserted by the Sea Fish (Conservation) Act 1992, section 2.
 - (e) Section 6 was amended by the Northern Ireland Constitution Act 1973 (c. 36), paragraph 8 of Schedule 5; the Fisheries Act 1981 (c. 29), section 23(2) and (3); and S.I. 1999/1820.
 - (f) Section 8 was amended by S.I. 1999/1820.
 - (g) 1968 c. 77. Section 5 was amended by the Fishery Limits Act 1976 (c. 86), section 4(1) and (2), paragraph 3(1) of Schedule 1 and paragraph 17(1) of Schedule 2; the Fisheries Act 1981, section 24(2); the Criminal Justice Act 1991 (c. 53), Part 3 of Schedule 4; and S.I. 1999/1820.
 - (h) 1976 c. 86. Section 2 was amended by the Fisheries Act 1981, Part 2 of Schedule 5; the Inshore Fishing (Scotland) Act 1984 (c. 26), Schedule 2; the Merchant Shipping Act 1988 (c. 12), Schedule 7; and S.I. 1999/1820.
 - (i) 1981 c. 29.
 - (j) 1983 c. 8; section 1 was amended by S.I. 1999/1820.

(3) Anything done (or having effect as if done) by or in relation to the transferor in connection with a transferred matter 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.

(4) 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 a transferred matter 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.

(5) In paragraphs (1) to (4) any reference to the transferor or transferee includes the department or an officer of the transferor or transferee.

(6) In this article—

“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;

“the transferee” means the Secretary of State or the Secretary of State for Environment, Food and Rural Affairs (as the case may be);

“the transferor” means, in relation to a transferred matter, the Secretary of State or Secretaries of State from whom it is transferred;

“transferred matter” means anything transferred by this Order.

Richard Tilbrook
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order transfers to the Secretary of State or the Secretary of State for Environment, Food and Rural Affairs functions of the Secretary of State for Environment, Food and Rural Affairs and the Secretary of State concerned with sea fishing in Northern Ireland under certain enactments relating to sea fishing.

Articles 4 and 5 make further provision in relation to the transfers of functions effected by article 3.

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

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

STATUTORY INSTRUMENTS

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