

*over
S. J. Board*



Civil Service Department

Whitehall London SW1A 2AZ

Telephone 01-273 4400

Chancellor of the Duchy of Lancaster

19 November 1981

Willie Rickett
10 Downing Street
LONDON SW1

Mr Whitby for information. KLI 19.11.81 WSR 14/11

Dear Willie

I enclose for information a corrected proof of the Transfer of Functions Order which is needed to legally implement the re-organisation of Central Departments which the Prime Minister announced on 12 November. It has been approved by Sir Robert Armstrong and will be sent to the Privy Council today or tomorrow. It will be convenient that the date for the Order's coming into operation, 7 December, will enable the Chancellor of the Duchy and the Minister of State, Treasury (Mr Barney Hayhoe) to appear before the Sub-Committee of the Treasury and Civil Service Select Committee on 9 December with the MPO and the Treasury fully clothed in their new legal robes.

I am copying this to Peter Jenkins (HM Treasury) and David Wright (Cabinet Office).

*Yours sincerely
Douglas Board*

D R H BOARD

Assistant Private Secretary

RESTRICTED

STATUTORY INSTRUMENTS

1981 No.

MINISTERS OF THE CROWN

The Transfer of Functions (Minister for the Civil Service and Treasury) Order 1981

Made	24th November 1981
Laid before Parliament	1st December 1981
Coming into Operation	7th December 1981

At the Court at Buckingham Palace, the 24th day of November 1981
Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in pursuance of section 1 of the Ministers of the Crown Act 1975(a), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation, interpretation and commencement

1.—(1) This Order may be cited as the Transfer of Functions (Minister for the Civil Service and Treasury) Order 1981.

(2) In this Order—

“allowance” includes an allowance in kind;

“the armed forces of the Crown” includes the women's services of those forces administered by the Defence Council;

“instrument” (without prejudice to the generality of that expression) includes in particular Royal Warrants, Orders in Council, Orders by Her Majesty, orders, rules, regulations, schemes, byelaws, minutes, agreements and other documents;

“the Minister” means the Minister for the Civil Service.

(3) Any reference in this Order to the functions of the Minister with respect to any matter includes a reference to any functions of the Minister relating to the exercise of any power to make provision by subordinate legislation with respect to that matter.

(4) This Order shall come into operation on 7th December 1981.

Transfer of functions from Minister to Treasury

2.—(1) There are hereby transferred to the Treasury the functions of the Minister with respect to—

(a) the number and grading of posts in civil service of the State, the remuneration, expenses and allowances of persons employed in that ser-

vice and, so far as they relate to remuneration, expenses or allowances, the conditions of service of such persons ;

(b) the pay and allowances of, and the charges payable by, members of the armed forces of the Crown ;

(c) pensions, allowances, gratuities and other superannuation benefits (including benefits payable in the case of injury, disease or death) ;

(d) the payment of compensation for loss of office or employment or for loss or diminution of earnings or of pension rights or for loss of remunerative time ;

(e) the centralised procurement or provision of goods, services and facilities in the following fields, namely computers, telecommunications and catering.

(2) There are hereby transferred to the Treasury ^① as regards persons ^② employed (under whatever title and in any capacity) otherwise than in the civil service of the State or the armed forces of the Crown ^① the functions of the Minister relating exclusively to the determination of one or more of the following matters, namely numbers, grading, remuneration, expenses, allowances and conditions of service.

①, ② serving or

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(3) There are hereby transferred to the Treasury—

(a) the functions of the Minister under the enactments specified in the Schedule ; and

(b) any functions which immediately before the commencement of this Order ~~are~~ exercisable by the Minister and the Treasury jointly.

/were

(4) There are hereby transferred to the Treasury the functions of the Minister ~~with respect~~ to the remuneration, expenses or allowances of any person or body, not being functions transferred to the Treasury ~~whether alone or jointly with the Minister~~ by any ~~other provision of this Order~~.

/relating exclusively

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10 of the preceding paragraphs

Transfer of functions to Minister and Treasury jointly

3.—(1) The functions of the Minister with respect to the appointment or employment of persons (under whatever title and in any capacity) otherwise than in the civil service of the State or the armed forces of the Crown are hereby transferred to the Minister and the Treasury jointly.

(2) Paragraph (1) does not apply to the functions of the Minister transferred by Article 2 or to her functions under section 1 of the Aliens Employment Act 1955(a) or section 75(5)(a) of the Race Relations Act 1976(b).

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Supplementary provisions

3.—(1) In Schedule 2 to the Parliamentary Commissioner Act 1967(^d) (departments and authorities subject to investigation)—

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(a) the entry "Civil Service Department" shall be omitted ;

(b) there shall be inserted in the appropriate place the entry "Management and Personnel Office" ; and

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(c) in note 6, as substituted by Article 3(1) of the Minister for the Civil Service Order 1968(^d) (scope of the references to the Civil Service Department and the Treasury), for "Civil Service Department", wherever occurring, there shall be substituted "Management and Personnel Office".

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(2) In section 22(4) of the Attachment of Earnings Act 1971(^d) (documentary evidence of Minister's determination of certain questions), for "Civil

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(a) 1955 (4 & 5 Eliz. 2) c.18. (b) 1976 c.74. (c) 1967 c.13. (d) S.I.1968/1656. (e) 1971 c.32.

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Service Department" there shall be substituted "Management and Personnel Office".

(3) In section 3(2) of the Government Trading Funds Act 1973(a) (payments to be made out of trading funds into Consolidated Fund)—

(a) for "Minister for the Civil Service", where it first occurs, there shall be substituted "Treasury"; and

(b) for the words from the beginning of paragraph (a) to the end of the subsection there shall be substituted—

"(a) where the Treasury is the responsible Minister for the fund, it shall be for the Treasury to determine the sums payable under this subsection, the amount of any payment and the time at which it is to be made; and

(b) in other cases it shall be for the responsible Minister to determine the sums so payable in agreement with the Treasury, subject to any directions given by the Treasury as to the amount of any payment or the time at which it is to be made."

(4) For Article 4 of the Civil Service Order in Council 1978 (power of Minister to make regulations or give instructions for controlling the conduct of the Home Civil Service, and providing for the classification, remuneration and other conditions of service of persons employed therein) there shall be substituted—

"4. As regards Her Majesty's Home Civil Service—

(a) the Minister for the Civil Service may from time to time make regulations or give instructions for controlling the conduct of the Service, and providing for the classification of all persons employed therein and, so far as they relate to matters other than remuneration, expenses and allowances, the conditions of service of all such persons; and

(b) the Treasury may from time to time make regulations or give instructions providing for the number and grading of posts in the Service, the remuneration, expenses and allowances of all persons employed therein and, so far as they relate to remuneration, expenses or allowances, the conditions of service of all such persons."

(5) Subject to any express repeal or amendment made by this Order, any enactment or instrument passed or made before the commencement of this Order shall have effect, so far as may be necessary for the purpose or in consequence of the transfers effected by this Order, as if any reference to the Minister or her Department or an officer of the Minister (including any reference which is to be construed as such a reference) were ~~or included~~ a reference to the Treasury or an officer of the Treasury, as the case may require.

(6) There are hereby transferred—

(a) to the Treasury Solicitor, all policies of assurance and rights and liabilities under policies of assurance to which immediately before the commencement of this Order the Minister (or any person on her behalf) was entitled or subject in connection with the functions transferred by Article 2(1)(c); and

(b) to the Treasury, all other rights and liabilities to which immediately before the commencement of this Order the Minister was entitled or subject in connection with any functions transferred by ~~Article 2-~~

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/ this Order

4.—(1) This Order shall not affect the validity of anything done by or in relation to the Minister before its commencement; and anything which at the commencement of this Order is in process of being done or in relation to the Minister may, if it relates to any of the functions, policies of assurance, rights and liabilities transferred by this Order, be continued by or in relation to the Treasury, ~~or by or in relation to the Minister and the Treasury jointly, as may be appropriate.~~

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(2) Any approval, consent, direction or appointment given or made or other thing whatever done by the Minister for the purposes of any of the functions, policies of assurance, rights and liabilities transferred by this Order shall, if in force at the commencement of this Order, continue in force and have effect as if similarly given, made or done by the Treasury, ~~or by the Minister and the Treasury jointly, as may be appropriate.~~

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(3) Documents or forms printed or duplicated for use in connection with any functions transferred by this Order may be so used notwithstanding that they contain references to the Minister or her Department, and those references shall be construed as, ~~or as including,~~ references to the Treasury; and similarly with references to an officer of the Minister.

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Clerk of the Privy Council

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Article 2(3)(a)

SCHEDULE

ENACTMENTS REFERRED TO IN ARTICLE 2(3)(a)

- 1968 c.14 . . . Public Expenditure and Receipts Act 1968, section 5.
- 1970 c.10 . . . Income and Corporation Taxes Act 1970, sections 366(3) and 369.
- 1972 c.48 . . . Parliamentary and other Pensions Act 1972, section 5(2).
- 1980 c.63 . . . Overseas Development and Co-operation Act 1980, section 12(3) and (4).

18th November 1981

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RESTRICTED

~~MINISTERS OF THE CROWN~~ /o

EXPLANATORY NOTE

(This Note is not part of the Order) L.

This Order in Council transfers to the Treasury some of the functions of the Minister for the Civil Service.

Article 2(1) transfers to the Treasury the functions of the Minister with respect to—

- (a) the number and grading of civil service posts, the remuneration, expenses and allowances of civil servants and, so far as they relate to remuneration, expenses or allowances, the conditions of service of civil servants (Article 2(1)(a));
- (b) the pay and allowances of members of the armed forces (Article 2(1)(b));
- (c) superannuation benefits (including injury, disease or death benefits) (Article 2(1)(c));
- (d) the payment of compensation for loss of office, employment, earnings, pension rights or remunerative time (Article 2(1)(d));
- (e) the centralised procurement or provision of goods, services and facilities in the fields of computers, telecommunications and catering (Article 2(1)(e));

Article 2(2) transfers to the Treasury functions of the Minister relating exclusively to the determination of numbers, grading, remuneration, expenses, allowances and conditions of service of persons serving or employed (in whatever capacity) otherwise than in the civil service or the armed forces.

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Article 2(3) transfers to the Treasury functions of the Minister under the Public Expenditure and Receipts Act 1968 (relating to the making of orders varying the level of fees payable for the services of civil servants in connection with certain statutory inquiries), under the Income and Corporation Taxes Act 1970 (relating to the certification for tax purposes of certain payments), under the Parliamentary and other Pensions Act 1972 (relating to the receipt of reports from the Government Actuary), and under the Overseas Development and Co-operation Act 1980 (relating to agreements and designations connected with the employment of persons overseas) (Article 2(3)(a) and Schedule). It also transfers to the Treasury functions at present exercisable jointly by the Minister and the Treasury (Article 2(3)(b)).

Article 2(4) transfers to the Treasury functions of the Minister not transferred by any other provision of the Order, with respect to the remuneration, expenses or allowances of any person or body.

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~~Article 3 transfers to the Minister and the Treasury jointly functions of the Minister with respect to the appointment or employment of persons (in whatever capacity) otherwise than in the civil service or the armed forces, not being functions transferred to the Treasury by Article 2 or functions under the Aliens' Employment Act 1955 or the Race Relations Act 1976 concerning the employment of persons by the Crown or by certain public bodies.~~

The functions not transferred to the Treasury will continue to be exercised by the Minister for the Civil Service but, as a consequence of the changes

1/3 brought about by this Order, the name of her Department is to be changed from the Civil Service Department to the Management and Personnel Office. Article 4(1) and (2) substitute the new name in the Parliamentary Commissioner Act 1967 and the Attachment of Earnings Act 1971.

1/3 Article 4(3) amends section 3(2) of the Government Trading Funds Act 1973 so as to reflect the transfer of functions effected by this Order, and
1/3 Article 4(4) similarly amends Article 4 of the Civil Service Order in Council 1978.

1/3 -> Other consequential or supplementary provisions are contained in Article 4(5) and (6) and Article 4(7).
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18th November 1981

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MR PATTISON

MAJ.

TRANSFER OF FUNCTIONS ORDER - TIMETABLE

As requested, I attach a note setting out the procedures and timetable which we have agreed with the First Parliamentary Counsel, and the Treasury Solicitor.

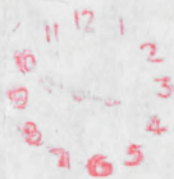
J.G.C.

JEREMY COLMAN
Private Secretary
13 November 1981

THE TRANSFER OF FUNCTIONS ORDER - TIMETABLE

1. The following procedures and timetable have been agreed with First Parliamentary Counsel.
2. The Order will be an Order in Council made under Section 1 of the Ministers of the Crown Act 1975.
3. It will be subject to negative resolution procedure (Section 5(2) of the 1975 Act). This is because the Order will transfer to the Treasury only some of the present functions of the Minister for the Civil Service; the rest will continue to be performed by her, or on her behalf, by her Department which is retitled 'Management and Personnel Office'. Her Department is not being abolished (were it abolished, affirmative resolution procedure would be required).
4. The Order will be put before the Privy Council at its meeting on 24 November, and will (it is hoped) be submitted to the Privy Council meeting by 18 November as required.
5. Orders in Council are normally laid before both Houses of Parliament 5 week days after they are approved by the Privy Council. The Order will therefore be laid on 1 December.
6. The general rule is that negative resolution Orders are brought into effect 21 calendar days after they are laid. On this occasion, however, because it is desired to put the new arrangements into operation in all respects as quickly as possible, it is proposed that the Order should be brought into effect on 7 December; the reasons for doing so, and why the Order could not be laid earlier, will need to be explained to the Joint Committee on Statutory Instruments.
7. The Order may be prayed against at any time within 40 days of its being laid (the days in question being those when both Houses are not adjourned).

13 NOV 1981





EFAR

10 DOWNING STREET

From the Private Secretary

MR. MACLEAN
CHIEF WHIP'S OFFICE

We spoke this morning about the Transfer of Functions Order implementing the machinery of Government decisions announced by the Prime Minister yesterday.

Sir Ian Bancroft's office tell me that the Procedural Note I mentioned to you is now a little out of date. But they have provided the attached up-date.

I have already given a copy of this note to David Heyhoe.

MMP

ds

13 November 1981

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7. The Order may be prayed against at any time within 40 days of its being laid (the days in question being those when both Houses are not adjourned).