
STATUTORY INSTRUMENTS

2013 No. 2597

MINISTERS OF THE CROWN

**The Transfer of Functions (Elections
and Referendums) Order 2013**

<i>Made</i>	- - - -	<i>9th October 2013</i>
<i>Laid before Parliament</i>		<i>16th October 2013</i>
<i>Coming into force</i>	- -	<i>6th November 2013</i>

Her Majesty, in exercise of the powers conferred by section 1 of the Ministers of the Crown Act 1975(1), 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 (Elections and Referendums) Order 2013.

(2) This Order comes into force on 6th November 2013.

Functions of the Secretary of State to be exercisable concurrently with the Lord President

2. The Secretary of State's functions under or by virtue of the following provisions are to be exercisable concurrently with the Lord President of the Council—

- (a) paragraph 16 of Schedule 4B to the Town and Country Planning Act 1990(2) (regulations about referendums relating to neighbourhood development orders) by virtue of section 333(1)(b) of that Act;
- (b) section 52ZQ of the Local Government Finance Act 1992(3) (regulations about referendums relating to council tax increases);
- (c) sections 9HE and 9MG of the Local Government Act 2000(4) (regulations about elections for elected mayors and about referendums relating to local authority governance arrangements).

(1) 1975 c. 26; section 1 was amended by section 20 of the Constitutional Reform Act 2005 (c. 4).
(2) 1990 c. 8; Schedule 4B was inserted by Schedule 10 to the Localism Act 2011 (c. 20). It is applied with modifications by sections 38A(3) and 38C(5) of the Planning and Compulsory Purchase Act 2004 (c. 5) and paragraph 7 of Schedule 4C to the Town and Country Planning Act 1990 as inserted by Schedules 9 and 11 to the Localism Act 2011.
(3) 1992 c. 14; section 52ZQ was inserted by Schedule 5 to the Localism Act 2011.
(4) 2000 c. 22; sections 9HE and 9MG were inserted by Schedule 2 to the Localism Act 2011.

Supplementary

3.—(1) This Order does not affect the validity of anything done (or having effect as if done) by or in relation to the 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 Secretary of State may, so far as it relates to an article 2 function, be continued by or in relation to the Lord President.

(3) Anything done (or having effect as if done) by or in relation to the Secretary of State in connection with an article 2 function 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 Lord President.

(4) Documents or forms printed for use in connection with an article 2 function may be used in connection with the exercise of that function by the Lord President even though they contain, or are to be read as containing, references to the Secretary of State; and for the purposes of the use of any such documents or forms in connection with the exercise of that function by the Lord President, those references are to be read as references to the Lord President.

(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 2, as if references to (and references which are to be read as references to) the Secretary of State were or included references to the Lord President.

(6) In paragraphs (1) to (5)—

- (a) references to the Secretary of State include references to the department or an officer of the Secretary of State, and
- (b) references to the Lord President include references to the Cabinet Office or an officer in the Cabinet Office accordingly.

(7) In this article—

“article 2 function” means a function directed by article 2 to be exercisable concurrently with the Lord President;

“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;

“Lord President” means the Lord President of the Council.

Consequential amendments

4. The Schedule has effect.

Richard Tilbrook
Clerk of the Privy Council

SCHEDULE

Article 4

CONSEQUENTIAL AMENDMENTS

Town and Country Planning Act 1990 (c. 8)

5. In paragraph 16 of Schedule 4B to the Town and Country Planning Act 1990 (regulations about referendums relating to neighbourhood development orders)—

- (a) in sub-paragraph (1), for “Regulations may” substitute “The Secretary of State or the Lord President of the Council may by regulations”, and
- (b) in sub-paragraph (5), after “Secretary of State” insert “or the Lord President of the Council”.

Local Government Finance Act 1992 (c. 14)

6.—(1) The Local Government Finance Act 1992 is amended as follows.

(2) In section 52ZQ(1), (2) and (6) (regulations about referendums relating to council tax increases), after “Secretary of State” insert “or the Lord President of the Council”.

(3) In section 113 (orders and regulations)(5)—

- (a) in subsections (1) and (2), after “Secretary of State,” insert “the Lord President of the Council,” and
- (b) in subsection (3), after “Secretary of State” insert “, the Lord President of the Council”.

Local Government Act 2000 (c. 22)

7.—(1) The Local Government Act 2000 is amended as follows.

(2) In the following provisions, in each place after “Secretary of State” insert “or the Lord President of the Council”—

- (a) section 9HE(1), (4) and (5) (regulations about elections for elected mayors);
- (b) section 9MG(2), (3) and (6) (regulations about referendums relating to local authority governance arrangements).

(3) In section 105 (orders and regulations), after subsection (2) insert—

“(2A) In relation to regulations under section 9HE or 9MG, subsection (2) has effect as if the reference to the Secretary of State were a reference to the Secretary of State or the Lord President of the Council.”.

(5) Section 113 was amended by paragraph 52 of Schedule 7 to the Local Government Act 2003 (c. 26) and section 80(4) and (5) of, and paragraph 32 of Schedule 6 to, the Localism Act 2011. Other amendments to section 113 have been made which are not relevant to this Order.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order in Council is made under section 1 of the Ministers of the Crown Act 1975. It makes provision for various functions of the Secretary of State (currently exercised by the Secretary of State for Communities and Local Government) in relation to elections and referendums to be exercisable concurrently with the Lord President of the Council.

Article 2 provides for the concurrent exercise of functions under or by virtue of paragraph 16 of Schedule 4B to the Town and Country Planning Act 1990 (c.8), section 52ZQ of the Local Government Finance Act 1992 (c.14) and sections 9HE and 9MG of the Local Government Act 2000 (c.22). All these provisions were inserted by the Localism Act 2011 (c.20), which post-dates a similar transfer of functions order (The Lord President of the Council Order 2010, S.I. 2010/1837). The provisions in the three amended Acts concern referendums about neighbourhood development orders and similar plans, referendums about council tax increases, referendums about local authority governance arrangements and elections for elected mayors.

Article 3 makes supplementary provision for continuity in relation to the exercise of the functions.

Article 4 and the Schedule make consequential amendments to relevant Acts of Parliament.

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.