STATUTORY INSTRUMENTS

1966 No. 692

MINISTERS OF THE CROWN

The Transfer of Functions (Building Control and Historic Buildings) Order 1966

Made - - - -	*9th June* 1966
Laid before Parliament	*15th June* 1966
Coming into Operation	*1st July* 1966

At the Court at Buckingham Palace, the 9th day of June 1966

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in pursuance of section 1 of the Ministers of the Crown (Transfer of Functions) Act 1946(a) and section 4 of the Ministers of the Crown Act 1964(b), 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 (Building Control and Historic Buildings) Order 1966.

(2) The Interpretation Act 1889(c) applies for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

(3) In this Order—

(*a*) the expression " instrument ", without prejudice to the generality of that expression, includes in particular Orders in Council, judgments, schemes, decrees, orders, rules, regulations, byelaws, awards, covenants, agreements, certificates and other documents;

(*b*) references to Wales include references to Monmouthshire; and

(*c*) any reference to any enactment or instrument is a reference to it as amended, and includes a reference to it as applied, by or under any other enactment or instrument.

(4) This Order shall come into operation on 1st July 1966.

(a) 1946 c. 31. (b) 1964 c. 98. (c) 1889 c. 63.

Building control

2. The functions exercisable immediately before the coming into operation of this Order by the Minister of Public Building and Works by virtue of Article 2 of the Transfer of Functions (Building Control) Order 1964(a) (which relates to building regulations and byelaws and the construction and drainage of new buildings) are hereby transferred—

(*a*) in the case of functions under subsection (1) of section 9 of the Public Health Act 1961(b) (which relates to the appointment of the Building Regulations Advisory Committee), to the Secretary of State and the Minister of Housing and Local Government acting jointly;

(*b*) in the case of other functions under the said section 9, the function of making building regulations and functions under Part XII of the Public Health Act 1936(c) so far as that Part relates to the functions previously mentioned in this paragraph, to the Minister of Housing and Local Government;

(*c*) in the case of functions not falling within paragraph (*a*) or (*b*) of this Article which are conferred under an enactment (other than subsection (3) of section 291 of the said Act of 1936) in its application to Wales, to the Secretary of State;

(*d*) in any other case, to the Minister of Housing and Local Government.

The National Building Agency

3. The functions of the Minister of Public Building and Works under the constitution of the National Building Agency are hereby transferred to the Secretary of State and the Minister of Housing and Local Government acting jointly.

Historic buildings

4.—(1) Subject to paragraph (2) of this Article, the functions of the Minister of Public Building and Works under the provisions of Part I of the Historic Buildings and Ancient Monuments Act 1953(d) (which relate to the preservation of historic buildings and their contents) are hereby transferred—

(*a*) in the case of functions under section 1 of that Act, to the Minister of Housing and Local Government;

(*b*) in the case of functions under sections 2 and 3 of that Act, to the Secretary of State;

(*c*) in the case of other functions conferred by the said Part I in its application to Scotland or Wales, to the Secretary of State; and

(*d*) in any other case, to the Minister of Housing and Local Government.

(2) The following functions are excepted from the functions transferred by paragraph (1) of this Article, that is to say—

(*a*) the functions of the Minister of Public Building and Works under subsections (2) to (5) of section 5 and section 7 of the said Act of 1953 in relation to such a building as is mentioned in paragraph (*a*) of subsection (2) of section 5 which, or an interest in which, is vested in him or which is under his control or management, and in relation to such a building as is mentioned in paragraph (*b*) of that subsection;

(*b*) the functions of the said Minister under subsections (3) to (5) of section 5 and section 7 of that Act in respect of objects belonging to him immediately before the coming into operation of this Order and acquired by him by virtue of subsection (2) of section 5 in connection with such a building as is mentioned in paragraph (*c*) of that subsection; and

(a) S.I. 1964/263 (1964 I, p. 457).
(b) 1961 c. 64.
(c) 1936 c. 49.
(d) 1953 c. 49.

(*c*) the functions of the said Minister under section 8 of that Act relating to the up-keep of—

(i) such a building as is mentioned in paragraph (*b*) of subsection (1) of that section which at the time there mentioned is or shortly will be vested in him or under his control or management, and

(ii) such a building as is mentioned in paragraph (*c*) of that subsection, and

(iii) any such building together with other property.

(3) The functions of the Minister of Public Building and Works under subsection (2) of section 69 of the Town and Country Planning Act 1962(a) are hereby transferred—

(*a*) in so far as those functions are conferred by that subsection in its application to Wales, to the Secretary of State; and

(*b*) in so far as those functions are conferred by that subsection otherwise than in its application to Wales, to the Minister of Housing and Local Government;

and the functions of the Minister of Public Building and Works under subsection (2) of section 38 of the Town and Country Planning (Scotland) Act 1947(b) are hereby transferred to the Secretary of State.

(4) The functions of the Minister of Public Building and Works under section 9 of the Coal-Mining (Subsidence) Act 1957(c) in relation to property other than property falling within paragraph (*a*) or paragraph (*b*) of subsection (1) of that section are hereby transferred—

(*a*) in so far as those functions are conferred by that section in its application to Scotland or Wales, to the Secretary of State; and

(*b*) in so far as those functions are conferred by that section otherwise than in its application to Scotland or Wales, to the Minister of Housing and Local Government.

Consequential amendment of enactments and instruments

5.—(1) Any enactment or instrument passed or made before the coming into operation of this Order shall be construed, so far as may be necessary for the purpose or in consequence of any transfer effected by this Order, as if—

(*a*) for any reference to a Minister from whom functions are transferred by this Order (including any reference which is to be construed as such a reference) there were substituted a reference to the Minister to whom the functions are transferred; and

(*b*) for any reference to the Department or any officer of a Minister from whom functions are so transferred (including any reference which is to be construed as such a reference) there were substituted a reference to the Department or an officer of the Minister to whom the functions are transferred.

(2) Without prejudice to the generality of paragraph (1) of this Article, the Historic Buildings and Ancient Monuments Act 1953(d) shall have effect subject to the provisions of the Schedule to this Order.

Supplemental

6.—(1) This Order shall not affect the validity of anything done by or in relation to any Minister before the coming into operation of this Order; and anything which, at the time of the coming into operation of this Order, is in

(a) 1962 c. 38. (b) 1947 c. 53. (c) 1957 c. 59. (d) 1953 c. 49.

process of being done by or in relation to any Minister (including in particular any legal proceedings pending to which he is a party) may, if it relates to any functions transferred by this Order, be continued by or in relation to the Minister to whom the functions are transferred.

(2) Any authority, appointment, approval, determination, direction or notification given or made by any Minister for the purposes of any functions transferred by this Order shall, if in force at the coming into operation of this Order, continue in force and have effect as if similarly given or made by the Minister to whom the functions are transferred; and any consultations held by any Minister in exercising any functions transferred by this Order shall be deemed to have been held by the Minister to whom the functions are transferred.

W. G. Agnew.

SCHEDULE Article 5(2)

AMENDMENTS OF HISTORIC BUILDINGS AND ANCIENT MONUMENTS ACT 1953 1953 c. 49.

1. In any provision of section 1, as applied by section 2 or section 3, the expression " the Minister " means the Secretary of State.

2. In section 2, the words " (5) and subsection " in subsection (2) and the words from " with the substitution " in subsection (2) to the end of the section are hereby repealed.

3. In section 8, the expression " the Minister " means any of the following Ministers, that is to say, the Secretary of State, the Minister of Housing and Local Government and the Minister of Public Building and Works, except that in relation to such a building as is mentioned in paragraph (*a*) of subsection (1) of that section the expression does not include the last-mentioned Minister and in relation to such a building as is mentioned in paragraph (*c*) of that subsection means that Minister only

EXPLANATORY NOTE

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

This Order transfers functions under a number of enactments from the Minister of Public Building and Works as follows:

(1) to the Secretary of State for Wales and the Minister of Housing and Local Government, functions relating to building control (Article 2);

(2) to the Secretaries of State for Scotland and Wales and the Minister of Housing and Local Government, functions relating to the National Building Agency (Article 3) and to buildings of outstanding historic or architectural interest (Article 4).

The broad basis of transfer is that the functions will be exercisable by each Minister in relation to that part of the country for which he is responsible except in so far, in the case of building control, as the function consists of the making of building regulations. These will be made by the Minister of Housing and Local Government in consultation with the Secretary of State for Wales. The function of appointing the Building Regulations Advisory Committee and the functions in respect of the National Building Agency are made jointly exercisable.