

**EXPLANATORY MEMORANDUM TO
THE NATIONAL ASSEMBLY FOR WALES (TRANSFER OF FUNCTIONS)
ORDER 2004**

2004 No.3044

1. This explanatory memorandum has been prepared by the Wales Office and is laid before Parliament by Command of Her Majesty.

2. **Description**

This draft instrument makes provision for and in connection with the transfer to the National Assembly for Wales (“the Assembly”) of a range of functions of a Minister of the Crown relating to animal health and welfare, local land charges, inheritance tax and the disposal of abandoned motor vehicles so far as those functions are exercisable in relation to Wales. It provides also that the inheritance tax function shall in certain cases be exercisable by the Assembly in relation to Wales concurrently with the Minister and that an entry in the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) shall be varied.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

None.

4. **Legislative Background**

- 4.1 This draft instrument is the latest in a series of instruments to be made under section 22 of the Government of Wales Act 1998.
- 4.2 Section 22 of the 1998 Act provides that Her Majesty may by Order in Council provide for the transfer to the Assembly of any function so far as exercisable by a Minister of the Crown in relation to Wales or direct that that any function so far as so exercisable shall be exercisable by the Assembly concurrently with the Minister of the Crown.
- 4.3 Section 22 also provides, however, that no recommendation may be made to Her Majesty in Council to make such an Order unless a draft of the instrument containing it has been laid before, and approved by a resolution of, each House of Parliament and, in the case of an Order varying or revoking a previous Order, unless such a draft has also been laid before, and approved by a resolution of, the Assembly.
- 4.4 This draft instrument was approved by a resolution of the Assembly on 13th July 2004.

5. Extent

This draft instrument applies to England and Wales.

6. European Convention on Human Rights

The Secretary of State for Wales has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the National Assembly for Wales (Transfer of Functions) Order 2004 are compatible with the Convention rights.

7. Policy background

- 7.1 The transfer to the Assembly of additional powers relating to animal health and welfare matters is intended to give the Assembly a level of responsibility for such matters which is equivalent (except as to primary legislation) to that of the Scottish Executive. The additional powers will complement the Assembly's current powers and the transfer will, it is believed, lead to greater consistency in the responsibility and accountability of the Assembly for such matters.
- 7.2 The background to the transfer to the Assembly of powers relating to the setting and payment of local land charges fees in Wales is the intended devolution of those powers (with one exception) to local authorities in England. It will secure consistency in such matters across Wales.
- 7.3 The transfer to the Assembly of the power to approve the acceptance of items of property in lieu of inheritance tax (with the exercise of the power by the Assembly being made concurrent with its exercise by the Minister where there is both a Welsh interest and another interest in the property concerned) will complement the Assembly's existing power to approve the allocation of such items to museums and galleries in Wales.
- 7.4 The transfer to the Assembly (subject to the specified exceptions) of the powers relating to the disposal of abandoned vehicles will close a gap in the Assembly's existing powers in that regard.
- 7.5 The variation of the entry relating to the Water Industry Act 1991 in the 1999 Transfer of Functions Order will remove an inconsistency in the manner in which two related powers under the 1991 Act are exercisable by the Assembly.

8. Impact

A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

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