

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

**2004 No.3137**

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

2. **Description**

This instrument makes provision for and in connection with the transfer to the National Assembly for Wales (“the Assembly”) of the documentary and electronic records of the Secretary of State for Wales which pre-date the commencement of devolution on 1st July 1999 but which relate to functions which have been transferred to the Assembly by a transfer of functions order under section 22 of the Government of Wales Act 1998 (“the 1988 Act”).

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

None.

4. **Legislative Background**

4.1 This instrument is made under section 25 of the 1998 Act.

4.2 Section 25 of the 1998 Act provides that the Secretary of State may by order make provision for the transfer to the Assembly of any property, rights or liabilities to which a Minister of the Crown is entitled.

4.3 Section 25 also enables such an order to create interests in, or rights over, property transferred to the Assembly.

5. **Extent**

This instrument extends to England and Wales.

6. **European Convention on Human Rights**

Not Applicable.

7. **Policy background**

7.1 The transfer to the Assembly of the relevant pre-devolution records of the Secretary of State for Wales is intended to give the Assembly ownership of all documents which relate to functions transferred to it by Order in Council. Section 23 of the 1998 Act would have allowed for the transfer of those records at the time of the transfer of the related

function, but each relevant Order in Council excluded those records from the transfer.

- 7.2 All such records are now at least 5 years old. The Secretary of State has no continuing interest in them, and individual consideration of whether they should be kept or destroyed is best carried out by the body with that continuing interest, the Assembly. Transferring ownership of the records to the Assembly will facilitate this.
- 7.3 Also, on 1st January 2005 (the date of coming into force of this Order) the Freedom of Information Act 2000 will come fully into force. Transferring the ownership of the relevant records to the Assembly will enable the Assembly to respond consistently to requests for all information relating to the functions which the Assembly now has, including pre-devolution information relating to those functions. This should lead to greater consistency in the responsibility and accountability of the Assembly for such matters.

## **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**

Cedric Longville at the Wales Office (tel: 020 7270 0552 or e-mail: [cedric.longville@walesoffice.gsi.gov.uk](mailto:cedric.longville@walesoffice.gsi.gov.uk)) can answer queries regarding this instrument.