

**2004 No. 3137**

**CONSTITUTIONAL LAW  
DEVOLUTION, WALES**

**The National Assembly for Wales (Transfer of Records)  
Order 2004**

*Made - - - - - 29th November 2004*

*Laid before Parliament 30th November 2004*

*Coming into force - - - 1st January 2005*

The Secretary of State for Wales, in exercise of the powers conferred on him by section 25 of the Government of Wales Act 1998(a), hereby makes the following Order:

**Citation, commencement and interpretation**

**1.**—(1) This Order may be cited as the National Assembly for Wales (Transfer of Records) Order 2004 and shall come into force on 1st January 2005.

(2) In this Order—

“the 1999 Order” means the National Assembly for Wales (Transfer of Functions) Order 1999(b);

“the Assembly” means the National Assembly for Wales; and

“transferred function” means any function of a Minister of the Crown which has been transferred to the Assembly under section 22 of the Government of Wales Act 1998 so as to be exercisable by the Assembly instead of by a Minister of the Crown.

**Transfer of records from the Secretary of State for Wales to the Assembly**

**2.**—(1) There shall be transferred to and vest in the Assembly all relevant records to which the Secretary of State for Wales is entitled immediately before the coming into force of this Order.

(2) In paragraph (1) above, “all relevant records” means those documentary or electronic records to which the Secretary of State for Wales was entitled immediately before the coming into force of the 1999 Order and which were at that time held or used wholly or mainly in connection with the exercise of a transferred function.

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(a) 1998 c. 38.

(b) S.I. 1999/672, amended by the Health Act 1999, sections 25 and 66, Countryside and Rights of Way Act 2000, sections 32, 73 and 99, Health and Social Care Act 2001, section 67, Adoption and Children Act 2002, section 145, Health and Social Care (Community Health and Standards) Act 2003, section 196, Legal Deposit Libraries Act 2003, section 15, Local Government Act 2003, section 127, Water Act 2003, section 100, and S.I.s 2000/253, 2000/1829, 2001/1149 and 2002/2626.

(3) Paragraph (1) above is subject to the right of the Secretary of State for Wales to have access to any records transferred to the Assembly by this Order.

29th November 2004

*Peter Hain*  
Secretary of State for Wales

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#### EXPLANATORY NOTE

*(This note is not part of the Order)*

Section 25 of the Government of Wales Act 1998 (“the 1998 Act”) empowers the Secretary of State to transfer specific property, rights and liabilities of a Minister of the Crown to the National Assembly for Wales (“the Assembly”).

In this Order, the Secretary of State for Wales transfers to the Assembly all his documentary and electronic records which pre-date the coming into force of the National Assembly for Wales (Transfer of Functions) Order 1999 No. 672 (“the 1999 Order”) and which were held or used wholly or mainly in connection with the exercise of functions transferred by an Order in Council under section 22 of the 1998 Act (a “section 22 Order”). By virtue of section 23(1) of that Act any such records would normally have transferred to the Assembly’s ownership at the coming into force of the relevant section 22 Order; but section 22 Orders, including the 1999 Order, have included provisions excepting those records from transfer (S.I.s 1999/2787, 2000/253 and 2001/3679).

By virtue of article 2(3) the Secretary of State for Wales will retain the right to have access to the transferred records.

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