



TRANSFER OF PUBLIC HEALTH FUNCTIONS ORDER 2020

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Statutory Document No. 2020/0066



Government Departments Act 1987

TRANSFER OF PUBLIC HEALTH FUNCTIONS ORDER 2020

Approved by Tynwald:

Coming into Operation:

1 April 2020

The Governor in Council makes the following Order under paragraphs 1, 3 and 4 of Schedule 2 to the Government Departments Act 1987.

1 Title

This Order is the Transfer of Public Health Functions Order 2020.

2 Commencement

If approved by Tynwald, this Order comes into operation on 1 April 2020¹.

3 Interpretation

In this Order —

“**the Department**” means the Department of Health and Social Care; and

“**the Public Health Directorate**” means that part of the Department which is managed by the director of public health.

4 Functions of Department transferred

(1) The functions of the Department so far as relating to —

(a) the director of public health; and

(b) the Public Health Directorate

are transferred to the Cabinet Office.

(2) The Schedule has effect to amend enactments in consequence of the transfer.

¹ Tynwald approval is required by paragraph 4(4) of Schedule 2 to the Government Departments Act 1987.

5 Transitional and supplemental provision

- (1) On the date on which this Order comes into operation the person then nominated by the Department as the director of public health is to be treated as having been nominated for that office by the Cabinet Office under section 1(1) of the Local Government Act 1985² as amended by this Order.
- (2) On the date on which this Order comes into operation, the Cabinet Office becomes the stationed employer for those employees of the Public Services Commission who are wholly or mainly employed in the Public Health Directorate.
- (3) For the sake of clarity, paragraph (2) does not affect the scope of paragraph 8 of Schedule 5 to the Employment Act 2006 and accordingly –
 - (a) on the date on which this Order comes into operation any person employed for the purposes of the Directorate who is not an employee of the Public Services Commission becomes an employee of the Cabinet Office; and
 - (b) in the case of a person mentioned in subparagraph (a), the person's period of employment is to be computed in accordance with paragraph 8 of Schedule 5 to the Employment Act 2006.
- (4) Save as expressly provided for in this article, nothing in this Order affects the terms and conditions of the appointment of the director of public health or of any other person serving in the Directorate (whether or not the person is a public sector employee).
- (5) In this article terms defined in the Public Services Commission Act 2015 have the same meaning as in that Act.

MADE 31 JANUARY 2020

W GREENHOW
Chief Secretary

² Section 1(1) is amended by paragraph 1 of the Schedule to this Order.

SCHEDULE

AMENDMENT OF ENACTMENTS

[Article 4(2)]

1 Local Government Act 1985

In section 1 of the Local Government Act 1985—

- (a) in subsection (1) for “The Department of Health and Social Care” substitute ~~“~~The Cabinet Office~~”~~;
- (b) in subsection (2) —
 - (i) for “provide the relevant Department” substitute ~~“~~provide the Cabinet Office or the relevant Department~~”~~; and
 - (ii) for “as the relevant Department” substitute ~~“~~as that Department~~”~~.

2 Public Health Act 1990

- (1) The Public Health Act 1990 is amended as follows.
- (2) In the following provisions of Part IIA (public health protection) for “the Department” substitute ~~“~~the Cabinet Office~~”~~.

The provisions are—

- (a) section 51B(1) (health protection regulations: international travel etc);
- (b) section 51C(1) (health protection regulations: domestic);
- (c) section 51D(1) (restriction on power to make regulations under section 51C);
- (d) section 51G(7) (power to order health measures in relation to persons);
- (e) section 51H(6) (power to order health measures in relation to things);
- (f) section 51L(3) and (4) (period for which health measures order may be in force);
- (g) section 51M(2) and (10) (procedure for making, varying and revoking health measures orders);
- (h) section 51N(1) (power to make further provision by regulations);
- (i) section 51O(1)(b), (c) and (d) (power to enter premises);
- (j) section 51Q(1) (Tynwald control: regulations and orders);

- (3) Before section 51Q (but following the cross-heading preceding that section insert—

51PA Consultation

Before making regulations or orders under this Part, if it is practicable to do so in all the circumstances, the Cabinet Office must consult the Department of Health and Social Care and such other persons as appear to it to be appropriate.

- (4) In section 51S (which contains further definitions for Part IIA) after subsection (3) insert—

(3A) “**Regulations**” means regulations made by the Cabinet Office, and “**prescribed**” is to be construed accordingly.

- (5) In section 95—

- (a) in the definition of “**authorised officer**” for “a director of public health” substitute the director of public health nominated by the Cabinet Office under section 1(1) of the *Local Government Act 1985*;
- (b) in the definition of “regulations” after “so specified,” insert the Cabinet Office (see section 51S(3A)) or

3 Abortion Reform Act 2019

In section 17 of the Abortion Reform Act 2019, (regulations for the purposes of the Act) after subsection (1) insert—

(1A) Before making regulations under subsection (1), the Department must consult the Director of Public Health.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order transfers the functions of the Department of Health and Social Care, so far as relating to the Public Health Directorate (“the relevant functions”), to the Cabinet Office.

Articles 1 and 2 provide respectively for the title and commencement of the Order.

Article 3 defines the term “the Department” and “the Public Health Directorate” for the purposes of the Order.

Article 4 transfers the relevant functions to the Cabinet Office, and gives effect to the Schedule which amends Acts of Tynwald in consequence of the transfer.

Article 5 contains transitional provisions to protect the position of the person currently holding the office of Director of Public Health when the Order comes into operation. It treats her as being nominated for that office by the Cabinet Office. In addition the stationed employer for those staff of the Public Health Directorate who are employees of the Public Services Commission becomes the Cabinet Office. The article also makes it clear it does not limit the application of paragraph 8 of Schedule 5 to the Employment Act 2006 and that accordingly those persons serving in the Directorate who are not employees of the Public Services Commission become employees of the Cabinet Office and retain continuity of employment by virtue of paragraph 8 of Schedule 5 to the Employment Act 2006. Save as expressly provided in article 5, nothing in the Order affects the terms and conditions of office of any person serving in the Directorate.