



Isle of Man

Ellan Vannin

SD No.2015/0109

**TRANSFER OF HOUSING FUNCTIONS
ORDER 2015**



TRANSFER OF HOUSING FUNCTIONS ORDER 2015

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Statutory Document No. 2015/0109



Government Departments Act 1987

TRANSFER OF HOUSING FUNCTIONS ORDER 2015

Approved by Tynwald: 17 March 2015
Coming into Operation: 1 April 2015

The Governor in Council makes the following Order under Schedule 2 to the Government Departments Act 1987.

1 Title

This Order is the Transfer of Housing Functions Order 2015.

2 Commencement

If approved by Tynwald, this Order comes into operation on 1 April 2015¹.

3 Meaning of “the Housing Schemes”

In this Order “the Housing Schemes” means —

- the Historic Buildings Conservation Scheme 2005²;
- the House Improvement and Energy Conservation Scheme 2000³;
- the House Improvement and Energy Conservation Scheme 2005⁴;
- the House Improvement and Energy Conservation Scheme 2010⁵;
- the House Improvement and Energy Conservation Scheme 2013⁶;
- the House Purchase Assistance Scheme 1999⁷;
- the House Purchase Assistance Scheme 2002⁸;
- the House Purchase Assistance Scheme 2007⁹;

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

² GC 19/05, as amended by GC 8/06 and GC 22/09.

³ GC 39/00.

⁴ GC 29/05, as amended by GC 31/06 and GC 68/07.

⁵ GC 48/10.

⁶ SD 0053/13.

⁷ GC 27/99.

⁸ GC 23/02.

⁹ GC25/07 as amended by GC 66/07 and 19/08.

- the House Purchase Assistance Scheme 2012¹⁰;
- the House Purchase (Persons aged 45 and over) Assistance Scheme 2005¹¹;
- the Shared Equity Purchase Assistance (First Home Choice) Scheme 2014¹²; and
- the Shared Equity Purchase Assistance (First Home Fixed) Scheme 2014¹³.

4 Transfer of housing functions

- (1) The functions of the Department of Health and Social Care in respect of housing, including, but not limited to, those contained in the enactments listed in Part 1 of the Schedule are transferred to the Department of Infrastructure, together with any property rights and liabilities held, enjoyed or incurred in connection with those functions before the transfer by the Department of Health and Social Care.

This is subject to the paragraph (2).

- (2) Paragraph (1) does not affect the Department of Health and Social Care's functions concerning the provision of accommodation —
- (a) for persons —
 - (i) employed in the provision of health services under the *National Health Service Act 2001*; or
 - (ii) receiving treatment or care or after-care services under that Act;
 - (b) under Part 3 of the *National Assistance (Isle of Man) Act 1951*;
 - (c) under Part 3 or section 76 of the *Children and Young Persons Act 2001*; or
 - (d) under the *Regulation of Care Act 2013*.
- (3) In consequence of, or incidental upon, the transfer made by paragraph (1) the enactments listed in Part 2 of the Schedule are amended to the extent set out there.

5 Transfer of property held for the purposes of the Housing Schemes

- (1) On the coming into operation of this Order, all real property which, immediately before the transfer effected by article 4, was held by or vested in the Department of Health and Social Care for the purposes of any of the Housing Schemes vests in the Department of Infrastructure without any conveyance or other assurance.

¹⁰ SD 0396/12 as amended by SD 2014/0163.

¹¹ GC 36/05

¹² SD 2014/0212.

¹³ SD 2014/0211.

- (2) A certificate signed on behalf of the Department of Infrastructure and stating that any property specified in the certificate, being property which immediately before this Order comes into operation was vested in or held by the Department of Health and Social Care, was so vested or held for the purposes of the functions transferred by this Order is conclusive evidence of that fact, and a certificate purporting to be so signed is to be presumed to be so until the contrary is proved.
- (3) Nothing in this article limits the operation of paragraph 5 of Schedule 2 to the *Government Departments Act 1987* (standard provisions as to transfer of property, etc.).

MADE 27TH FEBRUARY 2015

Signed by the authority of the Chief Secretary

D DAVIES
Director of Change & Reform

SCHEDULE

[Article 4]

FUNCTIONS TRANSFERRED FROM THE DEPARTMENT OF HEALTH AND
SOCIAL CAREPART 1 – ENACTMENTS UNDER WHICH FUNCTIONS ARE
TRANSFERRED**1 Enactments under which functions are transferred**

- (1) The enactments referred to in article 4(1) are —
 - (a) the Acts of Tynwald listed in sub-paragraph (2) and statutory documents under them; and
 - (b) without limiting the scope of paragraph (a), the Housing Schemes.
- (2) The Acts of Tynwald amended in consequence of the transfer are —
 - the *Chronically Sick and Disabled Persons Act 1981* (section 3);
 - the *Criminal Justice Act 2001* (so far as concerns the making of applications for anti-social behaviour orders under section 28);
 - the *Data Protection Act 2002* (so far as concerns information relating to the subsistence of a landlord and tenant relationship);
 - the *Housing Act 1955* (in respect of functions under Part IV, other than section 46, and Parts V to VII);
 - the *Housing Improvement Act 1975*;
 - the *Housing (Miscellaneous Provisions) Act 1976*;
 - the *Housing (Miscellaneous Provisions) Act 2011*;
 - the *Housing (Rent Control) Act 1948*;
 - the *Landlord and Tenant (Miscellaneous Provisions) Act 1976*; and
 - the *Property Service Charges Act 1989*.
- (3) The following enactments are amended incidentally because of the transfer —
 - section 22 of the *Road Traffic Act 1985*; and
 - sections 13(1) and 29(a) of the *Road Traffic Regulation Act 1985*.

PART 2 – AMENDMENTS TO ENACTMENTS

2 Chronically Sick and Disabled Persons Act 1981

In section 3, for “the Department” (in both places) substitute **the Department of Infrastructure**.

3 Criminal Justice Act 2001

In section 28(12) for “the Department of Health and Social Care, the Department of Education and Children” substitute –

the Department of Education and Children, the Department of Health and Social Care, the Department of Infrastructure.

4 Data Protection Act 2002

In section 62(1), in the first entry in the table in paragraph (c) of the definition of “**accessible record**” for “the Department of Health and Social Care” substitute **the Department of Infrastructure**.

5 Housing Act 1955

(1) In section 17(2), for “the Department of Environment, Food and Agriculture and the Department of Infrastructure” substitute **the Department and the Department of Environment, Food and Agriculture**.

(2) In section 21(4), for “the Department of Environment, Food and Agriculture and the Department of Infrastructure” substitute **the Department and the Department of Environment, Food and Agriculture**.

(3) In section 22(1)(a), for “the Department of Environment, Food and Agriculture and the Department of Infrastructure” substitute **the Department and the Department of Environment, Food and Agriculture**.

(4) In section 24, for “The Department of Infrastructure” substitute **The Department**.

(5) In section 25 for “the Department of Infrastructure, after consulting the Department of Health and Social Care” substitute **the Department**.

(6) In section 26(1) and (2) for “the Department of Infrastructure” substitute “the Department” (wherever occurring).

(7) In section 27(6)(b), for “the Department of Infrastructure” substitute “the Department”.

(8) In section 45 –

(a) for subsection (2) substitute –

(2) If housing operations under this Act have been carried out by a local authority outside their own area, and for the purposes of the operations public streets or roads have been constructed and completed by that local authority, the liability to maintain the streets or roads shall vest in the Department unless the Department is satisfied that the streets or roads have not been properly constructed in accordance with the plans and specifications approved by the Department. ~~22~~; and

(b) in subsection (3), for “the Department of Infrastructure” substitute ~~23~~ the Department ~~22~~.

(9) In section 46 for “the Department of Infrastructure, and the Department of Infrastructure’s” substitute ~~23~~ the Department, whose ~~22~~.

(10) Section 51A is repealed.

(11) In section 52 omit “(following consultation with the Department of Infrastructure)” wherever those words occur.

(12) In section 56 omit “and the Department of Infrastructure”.

(13) Section 61(3) is repealed.

(14) In section 63(1) and (3)(b) omit “and the Department of Infrastructure”.

(15) Section 64(1A) is repealed.

(16) In section 89 omit “after consulting the Department of Infrastructure,”.

(17) In section 92(1) —

(a) for the definition of “**the Department**” substitute—

~~23~~ “**the Department**” means the Department of Infrastructure; ~~22~~; and

(b) for the definition of “**relevant Department**” substitute —

~~23~~ “**relevant Department**” means the Department or the Department of Environment, Food and Agriculture (as the case requires); ~~22~~.

6 Housing Improvement Act 1975

(1) In section 1(1), for “Department of Health and Social Care” substitute ~~23~~ Department of Infrastructure ~~22~~.

(2) In section 22, in the definition of “**the Department**” for “Department of Health and Social Care” substitute ~~23~~ Department of Infrastructure ~~22~~.

7 Housing (Miscellaneous Provisions) Act 1976

(1) In the heading of section 1, for “Department of Social Care” substitute ~~23~~ Department of Infrastructure ~~22~~.

(2) In section 13(1) for the definition of “the Department” substitute —

~~23~~ “the Department” means the Department of Infrastructure; ~~22~~.

8 Housing (Miscellaneous Provisions) Act 2011

- (1) Section 2(3), which is spent, is repealed.
- (2) In section 3(1) in the definition of “**the Department**” for “Social Care” substitute **Infrastructure**.
- (3) In section 6(1), for “Department of Infrastructure” substitute **Department** (in both places).
- (4) In section 7 —
 - (a) in subsections (2) and (3), for “relevant Department” wherever occurring “substitute **Department**”;
 - (b) in subsection (4), omit “after consulting the Department of Infrastructure,”; and
 - (c) in subsection (7), omit the definition of “**relevant Department**”.
- (5) In section 8, for the words following “read as including a reference” substitute **to the Department**.
- (6) In section 9 —
 - (a) in subsection (1) —
 - (i) for “the relevant Department” substitute **the Department** (in both places); and
 - (ii) in paragraph (a) for “that body’s” substitute **the Department’s**;
 - (b) in subsection (6) omit the definition of “**relevant Department**”.

9 Housing (Rent Control) Act 1948

In section 12(1) in the definition of “**Department**” for “Department of Health and Social Care” substitute **Department of Infrastructure**.

10 Landlord and Tenant (Miscellaneous Provisions) Act 1976

In section 6(1)(c) for “Department of Health and Social Care” substitute **Department of Infrastructure**.

11 Property Service Charges Act 1989

In section 13(1) in the definition of “**the Department**” for “the Department of Health and Social Care” substitute **the Department of Infrastructure**.

12 Road Traffic Act 1985

In section 22 for “the Department, the Department of Health and Social Care” substitute **a Department**.

13 Road Traffic Regulation Act 1985

- (1) In section 13(1) for “The Department of Health and Social Care” substitute **“A Department”**.
- (2) In section 29(a) for “the Department of Health and Social Care” substitute **“a Department”**.

14 Amendment of the Housing Schemes

In each of the Housing Schemes for the definition of “**the Department**” substitute –

“the Department” means the Department of Infrastructure **”**.

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

This Order transfers the functions of the Department of Health and Social Care in respect of housing to the Department of Infrastructure, and makes provision consequent upon that transfer. It amends a series of Acts of Tynwald in the housing field and also updates references in a series of instruments relating to support for housing purchase in consequence of the transfer. It also makes minor amendments to two Acts relating to road traffic which are incidental to the transfer.