

1973. No. 303

[C]

LOCAL GOVERNMENT**Transfer of Officers**

ORDER, DATED 3RD SEPTEMBER 1973, MADE BY THE MINISTRY OF DEVELOPMENT UNDER SECTIONS 134, 135 AND 136 OF THE LOCAL GOVERNMENT ACT (NORTHERN IRELAND) 1972.

The Ministry of Development on behalf of the Secretary of State and in exercise of its powers under sections 134, 135 and 136 of the Local Government Act (Northern Ireland) 1972(a) and of every other power enabling it in that behalf, hereby makes the following Order:—

Citation and commencement

1. This Order may be cited as the Local Government (Transfer of Officers) Order (Northern Ireland) 1973 and shall come into operation on the 1st October 1973.

Interpretation

2. In this Order—

“the Act” means the Local Government Act (Northern Ireland) 1972;

“existing local authority” has the same meaning as in section 131(4) of the Act;

“district council” means the council of a local government district within the meaning of section 1 of the Act;

“area board” means an Education and Library Board established under Article 3 of the Education and Libraries (Northern Ireland) Order 1972(b) or a Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972(c);

“the Ministry concerned” has the same meaning as in section 148(1) of the Act.

Application

3.—(1) Any provision in this Order for the transfer of officers of any existing local authority shall apply to any officer who on 30th September 1973 is in the employment of such authority, but in the case of a person not in the whole-time employment of the authority the transfer effected by such provision in its application to the authority is limited to employment with the authority.

(2) Notwithstanding the provisions of Article 4, an officer who has elected to be subject to the provisions of Article 3 of the Superannuation (Northern Ireland) Order 1973(d) shall not be transferred under this Order.

(3) Except as provided in Article 6, this Order shall not apply to any officer for whom provision for his transfer is made under any other transferred provision.

(a) 1972. c. 9 (N.I.).

(b) S.I. 1972, No. 1263 (N.I. 12).

(c) S.I. 1972, No. 1265 (N.I. 14).

(d) S.I. 1973, No. 962 (N.I. 13).

(4) This Order shall not apply to any person as regards employment which, otherwise than by virtue of the abolition of authorities effected by the Act, is to be terminated on 30th September 1973.

Transfer of officers

4.—(1) Any officer of an existing local authority employed wholly or mainly in the discharge of functions transferred to or conferred on a Government Department by a transfer of functions order made under section 133(1) of the Act or by any other transferred provision shall be transferred to the Government Department concerned on 1st October 1973.

(2) Subject to paragraphs (3) and (4) any officer of an existing local authority employed wholly or mainly in the discharge of functions transferred to or conferred on a district council by a transfer of functions order made under section 133(1) of the Act or by section 133(2) of the Act, or by any other transferred provision, shall be transferred on 1st October 1973 to the council for the district in which he is wholly or mainly employed.

(3) Any professional or technical officer of an existing local authority employed wholly or mainly for the purposes of public health control shall be transferred on 1st October 1973—

- (a) in the case of officers employed by Belfast Corporation to the Belfast District Council; and
- (b) in every other case to the employer council referred to in Article 4 of the Local Government (Employment of Public Health Inspectors) Order (Northern Ireland) 1973(e) in relation to the district in which he is wholly or mainly employed.

(4) Any professional or technical officer of an existing local authority employed wholly or mainly for the purposes of building control shall be transferred on 1st October 1973—

- (a) in the case of officers employed by Belfast Corporation to the Belfast District Council; and
- (b) in every other case to the employer council referred to in Article 4 of the Local Government (Employment of Building Control Staff) Order (Northern Ireland) 1973(f) in relation to the district in which he is wholly or mainly employed.

(5) Subject to paragraph (6) any other officer of an existing local authority named in column (1) of the Schedule who is employed for the purposes of various functions, but is not employed wholly or mainly in the discharge of functions transferred to or conferred on a particular Government Department, district council, area board or public body, shall be transferred on 1st October 1973 to the new employer specified in column (2) of the Schedule.

(6) Where any officer of an existing local authority has entered into an agreement with a Government Department, district council, area board or public body to enter into the employment of such Department, council, board or body, either prior to or on 1st October 1973, and if by such agreement such officer would not be transferred in accordance with paragraphs (1) to (5) then, notwithstanding the provisions of paragraphs (1) to (5), the Ministry of Development may make a Scheme covering his transfer to such Department, council, board or body as may be specified in the Scheme.

(e) S.R. & O. (N.I.) 1973, No. 168.

(f) S.R. & O. (N.I.) 1973, No. 167.

(7) Every existing local authority shall ensure that each officer is informed as to—

- (a) the treatment of the officer under paragraphs (1) to (5);
- (b) the authority to whom the officer would be transferred on such treatment; and
- (c) the department to which any unresolved question should be reported in accordance with Article 7.

Protection of officers transferred

5.—(1) Every officer transferred by or under Article 4 to the employment of any Government Department, district council, area board or public body shall, so long as he continues in that employment by virtue of the transfer and until he is served with a statement in writing of his new terms and conditions of employment, enjoy terms and conditions of employment (including conditions as to superannuation benefits) not less favourable than those he enjoyed immediately before 17th November 1971.

(2) Subject to the following provisions of this Article the said new terms and conditions shall be such that—

(a) so long as he is engaged in duties reasonably comparable to those in which he was engaged immediately before the date of transfer the scale of his remuneration, and

(b) the other terms and conditions of his employment,

are taken as a whole not less favourable than those he enjoyed immediately before 17th November 1971.

(3) Where the terms and conditions of a person transferred by or under Article 4 (including conditions as to superannuation benefits) were, before 17th November 1971 but not earlier than 1st October 1971, varied in any respect and the Ministry concerned considers that, in all the circumstances, the variation was not justified, that Ministry may direct that the variation shall be wholly or partly omitted from the terms and conditions on which he becomes employed by the Government Department, district council, area board or public body, and paragraph (2) shall have effect in relation to him as if so much of the variation as is specified in the direction had not been included in the terms and conditions of his employment immediately before 17th November 1971.

(4) Where the terms and conditions of a person transferred by or under Article 4 (including conditions as to superannuation benefits) have been on or after 17th November 1971 and before the date of his transfer varied in any respect, the Ministry concerned may direct that the variation may be wholly or partly included among the terms and conditions on which he becomes employed by the Government Department, district council, area board or public body, and paragraph (2) shall have effect in relation to him as if so much of the variation as is specified in the direction had been included in the terms and conditions of his employment immediately before 17th November 1971.

(5) A written statement given in accordance with section 4 of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965(g) shall not be regarded as a statement of new terms and conditions of employment for the purposes of this Article unless the statement so indicates.