1973. No. 256 **[NC]**

LOCAL GOVERNMENT

Transfer of Functions and Adaptation of Enactments

TRANSFER OF FUNCTIONS (LOCAL GOVERNMENT, ETC.) (NORTHERN IRELAND) ORDER 1973, DATED 17TH JULY 1973, MADE BY THE SECRETARY OF STATE UNDER SECTION 2 OF THE NORTHERN IRELAND (MISCELLANEOUS PROVISIONS) ACT 1945.

WHEREAS section 2 of the Northern Ireland (Miscellaneous Provisions) Act 1945(**a**), as amended by section 13 of the Northern Ireland Act 1947(**b**), provides that if it appears to the Governor of Northern Ireland that, in consequence of functions having been transferred by or under an Act of the Parliament of Northern Ireland from one authority or person to another, it is expedient that functions conferred on the one by or under an Act of the Parliament of the United Kingdom (being functions that cannot be transferred by or under an Act of the Parliament of Northern Ireland) should be transferred to the other, he may, by Order in Council made with the consent of the Secretary of State, provide for the transfer of the functions so conferred accordingly:

AND WHEREAS the said section further provides that any such Order in Council may contain such consequential, incidental and supplemental provisions as appear to the Governor of Northern Ireland to be necessary or expedient for the purposes of the Order (including provisions amending any Act of the Parliament of the United Kingdom, or instrument issued under any such Act), and may be varied or revoked by a subsequent Order of the Governor of Northern Ireland in Council made with the consent of the Secretary of State:

AND WHEREAS in consequence of certain functions of local authorities and certain other bodies having been transferred by or under the Housing Executive Act (Northern Ireland) 1971(**c**), the Local Government Act (Northern Ireland) 1972(**d**) and the Health and Personal Social Services (Northern Ireland) Order 1972(**e**) it is expedient to make such provision as hereafter appearing in this Order:

AND WHEREAS by subsection (1)(*a*) of section 1 of the Northern Ireland (Temporary Provisions) Act 1972(**f**) it is provided that so long as that section has effect all functions which apart from that Act belong to the Governor in Council shall be discharged by the Secretary of State:

NOW, THEREFORE, the Secretary of State in exercise of the powers conferred upon him by section 2 of the Northern Ireland (Miscellaneous Provisions) Act 1945 (as amended by section 13 of the Northern Ireland Act 1947) and by section 1(1) of the Northern Ireland (Temporary Provisions) Act 1972 hereby makes the following Order:—

(**a**) 8 & 9 Geo. 6 c. 12.
(**b**) 10 & 11 Geo. 6 c. 37.
(**c**) 1971. c. 5 (N.I.).
(**d**) 1972 c. 9 (N.I.).
(**e**) S.I. 1972, No. 1265 (N.I. 14).
(**f**) 1972. c. 22.

Citation, etc.

1.—(1) This Order may be cited as the Transfer of Functions (Local Government, etc.) (Northern Ireland) Order 1973.

(2) In this Order—

"the appointed day" means 1st October 1973;

"district council" means a council established under the Local Government Act (Northern Ireland) 1972;

"Health and Social Services Board" means such a board established under the Health and Personal Social Services (Northern Ireland) Order 1972;

"statutory provision" has the meaning assigned to it by section 1(*f*) of the Interpretation Act (Northern Ireland) 1954(**g**);

"the transferor" and "the transferee" respectively mean, in relation to any functions transferred, the authority or person from and to whom the functions are transferred.

(3) The Interpretation Act (Northern Ireland) 1954 shall apply to this Order as it applies to an Act of the Parliament of Northern Ireland.

Transfer of functions

2. The functions exercisable immediately before the appointed day under each of the enactments specified in column 1 of Schedule 1 shall be and are hereby transferred as from that day from the authority or person specified in relation to that enactment in column 2 to the authority or person so specified in column 3.

Consequential, etc., amendments

3. In consequence of Article 2, as from the appointed day the enactments specified in column 1 of Schedule 2 shall, in their application to Northern Ireland, have effect subject to the amendments thereof specified in column 2.

Transfer of assets and liabilities

4. All assets held immediately before the appointed day by the transferor, and all liabilities to which immediately before that day the transferor was subject (including liabilities which fall to accrue due on or after that day), in connection with any functions transferred to the transferee by this Order (being assets and liabilities that are not transferred by or under any other statutory provision) shall as from the appointed day be transferred to the transferee to whom the functions are transferred; and accordingly, as from that day, by virtue of this Order and without any further conveyance, transfer or assignment—

(*a*) those assets shall vest in, and be enjoyed by, the transferee; and

(*b*) those liabilities shall become liabilities of the transferee.

References in enactments, etc., to transferor, and continuance of proceedings

5.—(1) The following provisions of this Article shall apply in relation to the functions, assets and liabilities transferred by this Order.

(**g**) 1954. c. 33.

(2) In the construction and for the purposes of any enactment (including the enactments mentioned in column 1 of Schedule 1), judgment, decree, order, award, deed, contract, regulation, bye-law, certificate or other document passed or made before the appointed day, any reference to, or which is to be construed as a reference to, the transferor, shall, so far only as may be necessary for the purpose or in consequence of the transfer, be construed as a reference to the transferee.

(3) The transfer shall not affect any order, regulation, rule, appointment, direction, instruction, approval, requirement or authorisation made or given or other thing done by the transferor before the appointed day, but any such matter shall, if in force immediately before that day, continue in force to the like extent and subject to the like provisions as if it had been duly made, given or done by the transferee.

(4) Anything commenced before the appointed day by or under the authority of the transferor may, so far as it relates to any functions transferred, be carried on or completed by or under the authority of the transferee.

(5) Where at the appointed day any legal proceeding is pending to which the transferor is a party, and the proceeding has reference to any of the functions, or any asset or liability, transferred, the transferee shall be substituted in the proceeding for the transferor, and the proceeding shall not abate by reason of the substitution.

(6) Without prejudice to paragraph (5), any investigation, legal proceeding or remedy under any enactment or otherwise in respect of any function, asset or liability transferred to the transferee may be instituted, continued or enforced by or against the transferee under the powers and the provisions (if any) applicable thereto immediately before the appointed day.

(7) In this Article "enactment" includes an enactment of the Parliament of Northern Ireland.

Modification and adaptation of local enactments

6. There shall be made in every local and personal Act and public general Act of a local character such modifications and adaptations as may be required to bring it into conformity with the provisions of this Order.

Dated this 17th day of July 1973.

W. S. I. Whitelaw,
One of Her Majesty's Principal Secretaries of State.

Article 2. SCHEDULE 1

Functions transferred

Enactment by or under which function is conferred	*Transferor*	*Transferee*
The Patriotic Fund Reorganisation Act 1903 (3 Edw. 7 c. 20)	The chairman of a county council; a Lord Mayor; the Mayor of a county borough	The chairman of a district council
The Sailors and Soldiers (Gifts for Land Settlement) Act 1916 (6 & 7 Geo. 5 c. 60)	The council of a county or county borough	A district council
The Public Health Act 1936, section 143 (26 Geo. 5 & 1 Edw. 8 c. 49)	A health authority or a port sanitary authority	A Health and Social Services Board
The Wireless Telegraphy Act 1949, section 2 (12, 13 & 14 Geo. 6 c. 54)	A welfare authority	A Health and Social Services Board
The Post Office Act 1953, section 51 (1 & 2 Eliz. 2 c. 36)	The council of a borough or urban district	A district council
The Army Act 1955 (3 & 4 Eliz. 2 c. 18)	A welfare authority	A Health and Social Services Board
The Air Force Act 1955 (3 & 4 Eliz. 2 c. 19)	A welfare authority	A Health and Social Services Board
The Trustee Investments Act 1961, section 11 (9 & 10 Eliz. 2 c. 62)	The council of a county, a county or other borough, or an urban or rural district	A district council
The Post Office Act 1969, Schedule 4, paragraph 59 (1969. c. 48)	A local authority or the Northern Ireland Housing Trust	The Northern Ireland Housing Executive
The Children and Young Persons Act 1969, section 25 (1969. c. 54)	A welfare authority	The Ministry of Home Affairs for Northern Ireland