1973. No. 227 **[C]**

LOCAL GOVERNMENT

Transfer of Assets, Liabilities, etc.

ORDER, DATED 29TH JUNE 1973, MADE BY THE MINISTRY OF DEVELOPMENT UNDER SECTION 134 OF THE LOCAL GOVERNMENT ACT (NORTHERN IRELAND) 1972.

The Ministry of Development on behalf of the Secretary of State and in exercise of the powers conferred on it by section 134 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

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

Interpretation

2.—(1) In this Order—

"the Act" means the Local Government Act (Northern Ireland) 1972;

"capital payments and receipts" means all payments and receipts in respect of any project for which a loan had been or was proposed to be raised for or towards financing the project, and in relation to such receipts includes any capital moneys such as are mentioned in section 3 of the Local Government (Finance) (Miscellaneous Provisions) Act (Northern Ireland) 1950(**b**);

"county council" does not include a county borough council;

"development functions" has the meaning assigned to it by section 7(1)(*a*) of the New Towns Act (Northern Ireland) 1965(**c**);

"existing local authority" has the meaning assigned to it by section 131(4) of the Act, but excludes a new town commission insofar as the exercise of development functions is concerned;

"liabilities" includes liabilities which fall to accrue due on or after 1st October 1973;

"relevant transfer of functions provision" means—

(*a*) section 133(2) of the Act; or

(*b*) any provision of the Local Government (Transfer of Functions) Order (Northern Ireland) 1973(**d**); or

(*c*) any other transferred provision passed or made before 1st October 1973 which contains no specific provision for the transfer of assets and liabilities and which either

(i) provides for the transfer of any function from an existing local authority or any officer of such an authority to any government department, council or public body or to any officer of any such department, council or body, or

(**a**) 1972. c. 9 (N.I.).
(**b**) 1950. c. 19.
(**c**) 1965. c. 13 (N.I.).
(**d**) S.R. & O. (N.I.) 1973, No. 140.

(ii) confers on any government department, council or public body or on any officer of any such department, council or body functions corresponding to functions which apart from that provision would have been exercisable by an existing local authority or an officer of such an authority if that authority had not been dissolved by the Act;

"revenue payments and receipts" means payments and receipts which are not capital payments and receipts.

(2) In this Order any reference to a liability attaching to an authority in connection with a function or an asset includes a liability to make payments to a loans pool or a consolidated loans fund which has been used for the purposes of financing that function or asset.

Transfer of assets and liabilities held solely for particular functions

3. Subject to Articles 4, 5, 6 and 8, and without prejudice to any other Order made under section 134 of the Act providing for the transfer of specific assets and liabilities of existing local authorities, every asset either held by an existing local authority or to which an existing local authority was entitled immediately before 1st October 1973 for the purposes of any function which is transferred from the authority or any of its officers, or which is conferred on any government department, council or public body or any officer of such department, council or body, by virtue of a relevant transfer of functions provision, and every liability attaching to such an authority in connection with any such function shall—

(*a*) if the asset was so held or if the authority was entitled to it solely for purposes of, or if the liability was so attached solely in connection with, a function which becomes exercisable by, or by an officer of, a government department, a council or a public body with respect to the whole of the area of the authority, be transferred on 1st October 1973 to that department, council or body;

(*b*) if the asset was so held or if the authority was entitled to it solely for purposes of, or if the liability was so attached solely in connection with, a function which becomes exercisable by, or by an officer of, a council with respect to part only of the area of the authority, be transferred on 1st October 1973 to that council and any other council or councils by, or by an officer of, which a corresponding function becomes exercisable with respect to any other part or parts of that area, or to either or any of them, in such manner and on such terms and conditions (which may include conditions for the payment of money by one such council to another such council) as—

(i) are specified in an agreement made by the councils concerned, or

(ii) in default of such agreement being made within such period as the Ministry may direct, are determined by the Ministry.

Transfer of certain assets and related liabilities

4.—(1) Subject to paragraph (2) and to the application of—

(*a*) the provisions of Article 3 in relation to administrative property used solely in respect of a single function transferred or conferred by a relevant transfer of functions provision, or

(*b*) any transferred provision passed or made before 1st October 1973 which contains specific provision for the transfer of assets and liabilities,

all administrative property either held by a county council or to which a county council was entitled immediately before 1st October 1973 and every right or liability attaching to such county council in connection with such property, shall be transferred on 1st October 1973 to the Ministry of Finance, and all administrative property either held by any other existing local authority or to which any other existing local authority was entitled immediately before 1st October 1973, and every right or liability attaching to such other existing local authority in connection with such property, shall be transferred on 1st October 1973 to the council for the district in which such property is situated.

(2) The property held by Fermanagh County Council, or to which such council was entitled, immediately before 1st October 1973 and known as—

(*a*) County Buildings, East Bridge Street, Enniskillen;

(*b*) Castle Barracks, Enniskillen; and

(*c*) Silverhill Depot, Enniskillen;

and every right or liability attaching to that council in connection with such property, shall be transferred on 1st October 1973 in the case of (a) and (*b*) above to the Ministry of Finance and in the case of (*c*) above to the Ministry of Development, and on the same date, subject to the application of the provisions of Article 3 in relation to administrative property used solely in respect of a single function transferred or conferred by a relevant transfer of functions provision and to the application of any transferred provision passed or made before 1st October 1973 which contains specific provision for the transfer of assets and liabilities, all other administrative property held by Fermanagh County Council or to which such council was entitled immediately before 1st October 1973, and every right or liability attaching to that council in connection with such property, shall be transferred to the Fermanagh District Council.

(3) All assets (other than any assets referred to in paragraphs (1) and (2)) either held by an existing local authority or to which an existing local authority was entitled immediately before 1st October 1973 for the purposes of two or more functions which are transferred from the authority or any of its officers, or which are conferred on any government department, council or public body or any officer of such department, council or body, by virtue of a relevant transfer of functions provision, and every liability attaching to such an authority in connection with such functions, shall—

(*a*) where the functions are transferred to or conferred on two or more government departments, councils or public bodies, be transferred on 1st October 1973 to such department, council or body, and subject to such terms and conditions (which may include conditions for the payment of money by one such department, council or body to another such department, council or body) as

(i) are specified in an agreement made by the departments, councils or bodies concerned, or

(ii) in default of such agreement being made within such period as the Ministry may direct, are determined by the Ministry;

(*b*) where the functions are transferred to or conferred on the same government department, council or public body, be transferred on 1st October 1973 to such department, council or body.

(4) All assets (other than any assets referred to in paragraphs (1) or (2)) either held by an existing local authority or to which an existing local authority was entitled immediately before 1st October 1973 for the purposes of two or more functions

(*a*) one or more than one of which is transferred or conferred by virtue of a relevant transfer of functions provision, and

(*b*) one or more than one of which is transferred or conferred by virtue of a transferred provision passed or made before 1st October 1973 which contains specific provision for the transfer of assets and liabilities,

and every liability attaching to such an authority in connection with any such function shall be transferred, subject to any specific provision relating to the transfer of such assets and liabilities, to such department, council or body as the Ministry may determine.

(5) Any asset either held by an existing local authority or to which an existing local authority was entitled immediately before 1st October 1973 and any liability attaching to an existing local authority immediately before that date shall, where no specific provision has been made either in this Order or in any other transferred provision for the transfer of such asset or liability and where in the opinion of the Ministry the asset or liability should be transferred to a council, or two or more councils, be transferred at that date to such council or councils as the Ministry may determine.

(6) In this Article the words "administrative property" mean town halls, offices, stores, yards and other property used mainly for the purpose of administering the functions of the existing local authority.

Transfer of certain liabilities relating to housing

5.—(1) Subject to paragraph (2), on 1st October 1973 any liability incurred by an existing local authority—

(*a*) in exercising the borrowing powers conferred on it by section 3(3) of the Housing Act (Northern Ireland) 1948(e) (power to borrow for the purpose of defraying a deficit in the Housing Revenue Account); or

(*b*) in exercising, for the purpose of defraying housing expenses, the borrowing powers conferred on it by any other transferred provision,

shall be transferred to the Northern Ireland Housing Executive, and after that date the Ministry shall pay to the Executive at such times and in such manner as the Ministry considers proper such sums as in the opinion of the Ministry correspond in amount to any sums which are payable by the Executive in respect of such liabilities.

(2) Paragraph (1) shall not apply to any liability which accrued due before 1st October 1973 and in this Article "housing expenses" has the same meaning as in section 3(1) of the Housing Act (Northern Ireland) 1948.

Liabilities in respect of certain borrowed money

6.—(1) Where an existing local authority maintains a loans pool or a consolidated loans fund any liability of the authority in respect of money borrowed for purposes of the pool or fund shall be transferred on 1st October 1973 to the Ministry of Finance under paragraph (2) or to a council or that Ministry under paragraph (3); and the pool or fund shall be operated by that Ministry or, as the case may be, by the council in accordance with paragraph (4).

(2) Where the pool is operated by a county council, the liability shall be transferred to the Ministry of Finance.

(e) 1948. c. 9.