
STATUTORY INSTRUMENTS

1986 No. 221 (N.I. 1)

NORTHERN IRELAND

**The Local Government (Temporary Provisions)
(Northern Ireland) Order 1986**

Approved by both Houses of Parliament

<i>Made</i>	<i>12th February 1986</i>
<i>Laid before Parliament</i>	<i>13th February 1986</i>
<i>Coming into Operation</i>	<i>16th February 1986</i>

At the Court at Buckingham Palace, the 12th day of February 1986

Present,

The Queen's Most Excellent Majesty in Council

Whereas it has been made to appear to Her Majesty that by reason of urgency this Order requires to be made without a draft having been approved by resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1974 c. 28.

Title and commencement

1. This Order may be cited as the Local Government (Temporary Provisions) (Northern Ireland) Order 1986 and shall come into operation on 16th February 1986.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

1954 c. 33 (N.I.)

(2) In this Order—

“authority” means a district council or a joint committee appointed by two or more district councils;

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“the Department” means the Department of the Environment;
“transferred provision” has the meaning assigned to it by section 1(g) of the Interpretation Act (Northern Ireland) 1954, and includes such a provision passed or made after the commencement of this Order.

(3) For the purposes of this Order references to the functions of an authority shall include references to the functions of any committee appointed by the authority.

Powers in connection with functions of authorities

3.—(1) If at any time it appears to the head of the Department that an authority has failed or is unable or unwilling to exercise duly and effectually any of the functions vested in the authority under any transferred provision, the head of the Department may by order—

- (a) provide for the appointment by the Department of a person or persons to exercise, or procure the exercise of, all or any of the functions of the authority;
- (b) modify any transferred provision so far as it is applicable to the authority;
- (c) make such other provision as the head of the Department thinks fit for the due exercise of the functions for whose exercise provision is made under sub-paragraph (a) or in consequence of their exercise, or for purposes otherwise incidental, consequential or supplemental to any provision of the order.

(2) The provisions which may be made under paragraph (1)(c) include provision for the exercise of a function of any person other than the authority where that function appears to the head of the Department to be necessary or expedient for the exercise of functions of the authority, and in particular for the exercise of any function which is exercisable by the members of the authority acting together or by any one or more than one of the members of the authority acting by virtue of such membership or of any office to which he has or they have been elected or appointed by reason of such membership, or by virtue of holding office as chairman or vice-chairman.

(3) The person, or any of the persons, appointed under paragraph (1)(a) to exercise any function of the authority, or any person authorised to act in his behalf, may exercise that function on behalf and in the name of the authority and to the exclusion of the chairman, vice-chairman and other members of the authority, and—

- (a) acts or omissions of any such person in connection with any such function shall be acts or omissions of the authority (and accordingly expenses incurred by him in that connection shall be expenses of the authority);
- (b) for the purposes of anything done or capable of being done, while the order is in force, in connection with any such function, or in connection with any other function provision

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for the exercise of which is made as mentioned in paragraph (2), the members of the authority shall be deemed not to be such members.

(4) Notwithstanding anything to the contrary in any other transferred provision and without prejudice to any provision contained in an order under paragraph (1), a person such as is mentioned in paragraph (3) may (without prejudice to the generality of the foregoing provisions of this Article)—

- (a) execute in the name of the authority any document or instrument or enter into any transaction or arrangement which but for the order could have been executed or entered into by or on behalf of the authority and, where requisite, affix the seal of the authority;
- (b) continue in relation to the authority anything which, at the time of the coming into operation of the order, is in the process of being done by or in relation to the authority (including, in particular, any legal proceeding to which the authority is a party);
- (c) appoint, remove and regulate the terms and conditions of service of, or the distribution of work amongst, the officers and servants of the authority and give to any officer or servant of the authority such directions or instructions as he considers necessary;
- (d) raise, levy, recover or expend money on behalf of the authority;
- (e) allocate the use of any property of or accommodation available to the authority; and
- (f) exercise all such other powers as may be reasonably necessary or expedient for the purposes of the order.

(5) It shall be the duty of every officer or servant of an authority to comply with directions or instructions given to him under paragraph (4)(c).

(6) Section 18(2) of the Interpretation Act (Northern Ireland) 1954 shall apply to any appointment made under this Article.

(7) An order under this Article—

- (a) shall be laid before the Assembly; and
- (b) shall cease to have effect at the expiry of a period of 28 days beginning with the date on which it was made unless, before the expiry of that period, the order has been approved by the Assembly, but without prejudice to anything previously done or to the making of a new order.

(8) In reckoning for the purposes of paragraph (7) any period of 28 days, no account shall be taken of any period during which the Assembly is dissolved or prorogued or adjourned for more than 4 days.

- (9) An order under this Article which—
- (a) wholly or partly revokes such an order; and
 - (b) does nothing else, or nothing else except make provision incidental or supplemental to the revocation,
- shall be subject to negative resolution.

Duration, expiry and revival of Article 3

4.—(1) Article 3 shall remain in force until 31st May 1988 and shall then expire unless continued in force by an order under paragraph (2)(a).

- (2) The head of the Department may by order provide—
- (a) that Article 3 (including that Article as in force by virtue of an order under this sub-paragraph or sub-paragraph (c)) shall continue in force for a period not exceeding one year from the coming into operation of the order;
 - (b) that Article 3 shall cease to be in force;
 - (c) that Article 3, if it is not for the time being in force, shall come into force again and remain in force for a period not exceeding one year from the coming into operation of the Order.

but Article 3 shall not have effect after the expiry of the period of five years beginning with the making of this Order.

(3) An order under paragraph (2) shall be subject to affirmative resolution.

G. I. deDeney,
Clerk of the Privy Council.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order enables the head of the Department of the Environment to make provision for the exercise of the functions of any district council in Northern Ireland, or of any joint committee appointed by two or more such councils, where the council or committee fails, or is unable or unwilling, to exercise any of its functions duly and effectually.

The substantive provisions cease to have effect on 31st May 1988 unless renewed by statutory rule for a maximum of a year at a time (and not beyond 17th February 1991).