

1963. No. 29

[C]

**MINISTRIES OF NORTHERN IRELAND****Transfer of Functions and Adaptation of Enactments**

ORDER IN COUNCIL\*, DATED 28TH FEBRUARY, 1963, MADE UNDER SECTION FOUR OF THE MINISTRIES ACT (NORTHERN IRELAND) 1944, WITH RESPECT TO THE MINISTRY OF COMMERCE, THE MINISTRY OF HOME AFFAIRS AND THE MINISTRY OF AGRICULTURE.

BY THE GOVERNOR IN THE PRIVY COUNCIL OF NORTHERN IRELAND

WAKEHURST

Whereas by section four of the Ministries Act (Northern Ireland) 1944(a), (in this Order referred to as "the Act"), it is provided that the Governor of Northern Ireland may, from time to time, by Order in Council assign to any department, or transfer to any department from any other department, such functions as appear to the said Governor to be appropriate for such assignment or transfer; that each department shall have and may exercise such functions as may be specified by such an Order in Council and that such an Order in Council may make such incidental, consequential and supplemental provisions as may be necessary or expedient for the purpose of giving full effect to the Act, including provisions for such matters as are mentioned in sub-section (2) of section four of the Act:

And Whereas by sub-section (5) of the said section four it is provided that the said Governor shall not be recommended to make an Order in Council under the said section four (other than an Order in Council made for the purposes of section one or section two of the Act) until a draft thereof has lain before each House of Parliament for the statutory period, and that if either House of Parliament within that period resolves that no further proceedings be taken in relation thereto, no further proceedings shall be so taken, but without prejudice to the preparation of a fresh draft:

And Whereas it is expedient that provision, as hereafter appearing in this Order, should be made in relation to certain purposes other than purposes of section one or section two of the Act, and, accordingly, this Order was laid in draft before each House of Parliament for the statutory period, and neither House of Parliament during that period passed any resolution in relation thereto:

Now, Therefore, I, John de Vere, Baron Wakehurst, Knight of the Most Noble Order of the Garter, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George, Governor of Northern Ireland, by and with the advice of the Privy Council of Northern Ireland, in exercise of the powers conferred upon me by section four of the Act, do hereby order as follows:—

(a) 1944. c. 14.

\*A draft of this Order in Council was laid before each House of Parliament on 26th November, 1962, and lay for the statutory period.

### *General*

1.—(1) This Order may be cited as the Ministries (Transfer of Functions) Order (Northern Ireland) 1963.

(2) In this Order the following expressions have the meanings hereby assigned to them, that is to say:—

“day of transfer” means the first day of April, 1963;

“Ministry” includes a Minister;

“transferor” and “transferee” respectively mean, in relation to any functions transferred, the Ministry from and the Ministry to which the functions are transferred.

(3) This Order shall have effect subject to the provisions of any Order in Council which may hereafter be made under section four of the Act.

### *Transfer of certain Functions of Ministry of Commerce*

2.—(1) The functions exercisable immediately before the day of transfer by the Ministry of Commerce under or for the purposes of the enactments set out in Part I of the Schedule shall be, and are hereby, transferred as from that day to the Ministry of Home Affairs.

(2) The functions exercisable immediately before the day of transfer by the Ministry of Commerce under or for the purposes of the enactments set out in Part II of the Schedule shall be, and are hereby, transferred as from that day to the Ministry of Agriculture.

(3) In consequence of the transfer of functions under enactments relating to fisheries to the Ministry of Agriculture under paragraph (2), that Ministry shall not, after the day of transfer, be required, in the exercise of functions under section twelve of the Urban Drainage Act (Northern Ireland), 1957, to consult with the Ministry of Commerce.

(4) The Notification entitled “Assignment of Functions to Departments” issued by the Lord Lieutenant of Ireland on the seventh day of June, 1921, and altered by subsequent enactments, shall, so far as it relates to the Ministry of Commerce, the Ministry of Home Affairs or the Ministry of Agriculture, have effect subject to the provisions of this Order.

### *Transfer of Functions, Property, Rights and Liabilities*

3.—(1) The following provisions of this Article shall apply in relation to the functions transferred by this Order.

(2) In the construction and for the purposes of any enactment (including the enactments set out in the Schedule), judgment, decree, order, award, deed, contract, regulation, byelaw, certificate or other document passed or made before the day of transfer, 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 day of transfer, 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 day of transfer, 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 day of transfer any legal proceeding is pending to which the transferor is a party, and the proceeding has reference to any of the functions transferred, the transferee shall be substituted in the proceeding for the transferor, and the proceeding shall not abate by reason of the substitution.

4. All property, rights and liabilities held, enjoyed or incurred before the day of transfer by the transferor in connection with the functions transferred to the transferee by this Order shall be transferred to the transferee as from the day of transfer; and, accordingly, as from that day by virtue of this Order and without any further conveyance, transfer or assignment—

- (a) the said property, real or personal, shall vest in the transferee;
- (b) the said rights shall be enjoyed by the transferee; and
- (c) the said liabilities shall become liabilities of the transferee.

#### *Modification and Adaptation of Enactments*

5. 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.

Given at Government House, Hillsborough, this 28th day of February, 1963.

*Terence O'Neill*

*Brian Faulkner*

*J. L. O. Andrews*

### SCHEDULE

#### PART I

#### **Enactments relating to functions transferred from Ministry of Commerce to Ministry of Home Affairs**

The Inland Navigation Act (Ireland), 1800.

The Bridges (Ireland) Acts, 1813 to 1875.

The Canals (Ireland) Act, 1816.

So much of the Grand Juries (Ireland) Acts, 1816 to 1895, as relates to roads and bridges.

The Summary Jurisdiction (Ireland) Act, 1851, sections 9, 10 and 14.

The Towns Improvement Clauses Act, 1847, sections 66, 68, 69, 70, 73 and 74 as those sections are incorporated with or applied by any other enactment (including the Roads Act (Northern Ireland), 1948).

The Railway and Canal Traffic Acts, 1854 to 1894, so far as not included in the railway enactments within the meaning of Part II of the Schedule to the Administrative Provisions Act (Northern Ireland), 1926.

The Tramways (Ireland) Acts, 1860 to 1900.

The Public Health (Ireland) Act, 1878, sections 29, 39, 40 and 55.

The Public Health Acts Amendment Act, 1890, sections 35, 39, 40, 42 and 43.

The Barbed Wire Act, 1893.

So much of the Local Government Acts (Northern Ireland), 1898 to 1962, as relates to roads and bridges or to the appointment, removal, qualifications, remuneration and discharge of duties of county surveyors and assistant surveyors.

The Public Health Acts Amendment Act, 1907, section 47.

The Ministry of Transport Act, 1919, except in so far as relating to harbours, docks and piers.

- The Ferries (Acquisition by Local Authorities) Act, 1919.
- The Roads Act, 1920.
- The Local Government (Roads) Act (Northern Ireland), 1923.
- The railway enactments within the meaning of Part II of the Schedule to the Administrative Provisions Act (Northern Ireland), 1926, and so much of that Act as relates to railways.
- The Road Traffic Acts (Northern Ireland), 1926 to 1955.
- The Railways (Road Vehicles) Act (Northern Ireland), 1927.
- The Roads Improvement Act (Northern Ireland), 1928.
- The Railway and Canal Traffic (Amendment) Act (Northern Ireland), 1930.
- The Drainage Act (Northern Ireland), 1933, section 8.
- The Railways Act (Northern Ireland), 1934.
- So much of the Road and Railway Transport Act (Northern Ireland), 1935, as remains in force on the day of transfer by virtue of section 75 of the Transport Act (Northern Ireland), 1948.
- The Canals and Inland Navigation Act (Northern Ireland), 1936.
- The Roads Act (Northern Ireland), 1937.
- The Road Transport Act (Northern Ireland), 1941.
- The Clogher Valley Railway and Roads Act (Northern Ireland), 1941.
- So much of section 7 of the Industries Development Act (Northern Ireland), 1945, as relates to means of communication by road, rail or water.
- The Drainage Act (Northern Ireland), 1947, sections 8 and 31.
- The Transport Acts (Northern Ireland), 1948-1962.
- The Roads Act (Northern Ireland), 1948, and the enactments applied by that Act in relation to the Ministry of Commerce as a road authority.
- The Transport Tribunal (First Chairman) Act (Northern Ireland), 1948.
- So much of sections 6 to 10 of the Public Health and Local Government (Miscellaneous Provisions) Act (Northern Ireland), 1949, as relates to the borrowing of money in connection with highways, roads or bridges.
- So much of section 33B of the Exchequer and Financial Provisions Act (Northern Ireland), 1950, as relates to ferries, canals or inland navigations.
- The Erne Drainage and Development Act (Northern Ireland), 1950, sections 12 and 17.
- The Road Races Act (Northern Ireland), 1950.
- The Transport (Special Inquiries) Act (Northern Ireland), 1951.
- The Transport Tribunal (First Chairman) (Amendment) Act (Northern Ireland), 1953.
- The Vehicles (Excise) Act (Northern Ireland), 1954, and the enactments construed as one with that Act.
- The Lough Neagh and Lower Bann Drainage and Navigation Act (Northern Ireland), 1955, sections 14 and 15.
- So much of the Urban Drainage Act (Northern Ireland), 1957, as relates to roads, railways or bridges.
- The Finance Act (Northern Ireland), 1958, section 10.
- The Finance Act (Northern Ireland), 1959, section 10(4).
- The Special Roads Act (Northern Ireland), 1963.
- Any enactment in force on the day of transfer amending or extending any of the above-mentioned enactments.

## PART II

**Enactments relating to functions transferred from  
Ministry of Commerce to Ministry of Agriculture**

The Fisheries Acts (Northern Ireland), 1842 to 1954.

So far as not cited with the Fisheries Acts (Northern Ireland), 1842 to 1954, the fishery enactments within the meaning of Part III of the Schedule to the Administrative Provisions Act (Northern Ireland), 1926, and so much of that Act as relates to fisheries.

So much of the Trawling in Prohibited Areas Prevention Act, 1909, as relates to functions which can be transferred by or under an Act of the Parliament of Northern Ireland.

The Sea-fishing Industry Act (Northern Ireland), 1933.

So much of sections 3-9 of, and Part II of the Schedule to, the Development Loans Act (Northern Ireland), 1945, as relates to fishery development loans.

The Erne Drainage and Development Act (Northern Ireland), 1950, section 13.

The Foyle Fisheries Acts (Northern Ireland), 1952 and 1962.

The Lough Neagh and Lower Bann Drainage and Navigation Act (Northern Ireland), 1955, section 13.

The Finance (Miscellaneous Provisions) Act (Northern Ireland), 1955, section 16(1) and (2).

Sections 2 and 4 of the Urban Drainage Act (Northern Ireland), 1957, so far as they confer functions on the Ministry of Commerce in relation to fisheries and fish life.

Any enactment in force on the day of transfer amending or extending any of the above-mentioned enactments.

## EXPLANATORY NOTE

*(This note is not part of the Order, but is intended to indicate its general purport.)*

This Order in Council provides for the transfer from the Ministry of Commerce of functions relating to roads, railways, canals and inland navigation to the Ministry of Home Affairs and of functions relating to fisheries to the Ministry of Agriculture.

1963. No. 30

LAND LAW

**Authentication of Seal of Ministry of Finance**

This Order was revoked by S.R. & O. (N.I.) 1963, No. 53.