

MINISTRIES**Transfer of Functions and Adaptation of Enactments****Drainage**

ORDER IN COUNCIL, DATED 21ST MARCH, 1945, MADE UNDER SECTION FOUR OF THE MINISTRIES ACT (NORTHERN IRELAND), 1944, WITH RESPECT TO THE MINISTRY OF AGRICULTURE, THE MINISTRY OF HEALTH AND LOCAL GOVERNMENT AND THE MINISTRY OF HOME AFFAIRS.

1945. No. 35

BY THE GOVERNOR IN THE PRIVY COUNCIL OF NORTHERN IRELAND.

ABERCORN

WHEREAS by section four of the Ministries Act (Northern Ireland), 1944, (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; 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 that any Order in Council made under the said section may be varied or revoked by a subsequent Order in Council so made;

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, JAMES ALBERT EDWARD, DUKE OF ABERCORN, Knight of the Most Noble Order of the Garter, Knight of the Most Illustrious Order of Saint Patrick, 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 :—

General

1. (1) This Order may be cited as the Ministries (Transfer of Drainage Functions) Order, 1945.

(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, 1945 ;

“ 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) The Interpretation Act, 1921, applies for the purpose of the interpretation of this Order in like manner as it applies for the interpretation of an Act of the Parliament of Northern Ireland.

(4) 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.

Functions of Ministry of Agriculture and Ministry of Health and Local Government

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

(2) References to the Ministry of Home Affairs, where they occur in the enactments set out in Part I of the Schedule to this Order shall, as from the day of transfer, be construed as references to the Ministry of Agriculture except where otherwise expressly provided by this Order.

3. (1) The functions exercisable immediately before the day of transfer by the Ministry of Home Affairs under or for the purposes of the enactments set out in Part II of the Schedule to this Order shall be, and are hereby transferred as from that day to the Ministry of Health and Local Government.

Provided that so far as the functions so transferred are exercisable under or for the purposes of—

(a) sub-section (1) of section three of the Drainage Act (Northern Ireland), 1925 ; or

- (b) sub-section (11) of section five of the Drainage Act (Northern Ireland), 1933 ; or
- (c) sub-section (1) of section four of the Drainage Act (Northern Ireland), 1942 ;

they shall be exercised by the Ministry of Health and Local Government after consultation with the Ministry of Agriculture.

(2) References to the Ministry of Home Affairs where they occur in the enactments set out in Part II of the Schedule to this Order shall, as from the day of transfer, be construed as references to the Ministry of Health and Local Government.

4. (1) 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 Agriculture and the Ministry of Home Affairs, have effect subject to the provisions of this Order.

(2) The Ministries (Transfer of Functions) (No. 1) Order, 1944, as amended by the Ministries (Transfer of Functions) (No. 2) Order, 1944, and the Ministries (Transfer of Functions) (No. 3) Order, 1944, shall have effect subject to the provisions of this Order.

Transfer of Property, Rights and Liabilities

5. (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, 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.

6. (1) The following provisions of this Article shall apply in relation to property, rights and liabilities connected with the functions transferred by this Order.

(2) All property, rights and liabilities held, enjoyed or incurred before the day of transfer by the Ministry of Home Affairs in connection with the functions transferred to the Ministry of Agriculture by this Order shall be transferred to that Ministry 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 Ministry of Agriculture ;
- (b) the said rights shall be enjoyed by that Ministry ; and
- (c) the said liabilities shall become liabilities of that Ministry.

(3) All property, rights and liabilities held, enjoyed or incurred before the day of transfer by the Ministry of Home Affairs in connection with the functions transferred to the Ministry of Health and Local Government by this Order shall be transferred to that Ministry 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 Ministry of Health and Local Government ;
- (b) the said rights shall be enjoyed by that Ministry ; and
- (c) the said liabilities shall become liabilities of that Ministry.

Modification and Adaptation of Enactments

7. (1) For the purposes of sub-section (2) of section twenty-one of the Drainage Act (Northern Ireland), 1925 (which relates to the power to make regulations under that Act) the expression " appropriate Ministry " shall in relation to any matter authorised to be prescribed under or by virtue of sections nine and ten of that Act, mean the Ministry of Health and Local Government.

(2) Section twenty-two of the Drainage Act (Northern Ireland), 1925, (which relates to the holding of local inquiries for any of the purposes of that Act) shall have effect as if the enactments applied by or by virtue of that section were in terms made applicable to the holding of such inquiries as may be directed by the Ministry of Agriculture for those purposes.

(3) In sub-section (3) of section ten of the Drainage Act

(Northern Ireland), 1942, (which relates to agricultural land improvement schemes) the words from "but subject" to the end of the sub-section shall cease to have effect.

(4) Subject to the provisions of this Order any reference in Part I of the Drainage Act (Northern Ireland), 1942, or in the Second Schedule to that Act to consultation with the Ministry of Agriculture shall cease to have effect.

8. 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 21st day of March, 1945.

Kilmorey.
Edmond Warnock.
R. Moore.
William Grant.

SCHEDULE.

PART I.

ENACTMENTS RELATING TO FUNCTIONS TRANSFERRED TO MINISTRY OF AGRICULTURE.

The Drainage Act (Northern Ireland), 1925, except the provisions of that Act which are specified in Part II of this Schedule.

The Drainage Act (Northern Ireland), 1929, Part II.

The Drainage Act (Northern Ireland), 1933, section five, except sub-section (11) thereof.

The Drainage Act (Northern Ireland), 1935, sections one and five.

The Drainage Act (Northern Ireland), 1942, except sub-section (1) of section four and Part II thereof.

PART II.

ENACTMENTS RELATING TO FUNCTIONS TRANSFERRED TO MINISTRY OF HEALTH AND LOCAL GOVERNMENT.

The Drainage Act (Northern Ireland), 1925, sub-section (1) of section three and sections nine, ten and twenty.

The Drainage Act (Northern Ireland), 1931, section two.

The Drainage Act (Northern Ireland), 1933, sub-section (11) of section five.

The Drainage Act (Northern Ireland), 1942, sub-section (4) of section four.
