

1968. No. 88

[C]

MINISTRIES OF NORTHERN IRELAND

Transfer of Functions

ORDER IN COUNCIL*, DATED 22ND MARCH 1968, MADE UNDER SECTION 4 OF THE MINISTRIES ACT (NORTHERN IRELAND) 1944.

BY THE GOVERNOR IN THE PRIVY COUNCIL OF NORTHERN IRELAND

ERSKINE OF RERRICK

Whereas by section 4 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 section 4(2) of the Act:

And Whereas by section 4(5) of the Act it is provided that the said Governor shall not be recommended to make an Order in Council under the said section 4 (other than an Order in Council made for the purposes of section 1 or 2 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 the purposes of section 1 or 2 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 Maxwell, Baron Erskine of Rerrick, Knight Grand Cross of the Most Excellent Order of the British Empire, Governor of Northern Ireland, by and with the advice of the Privy Council of Northern Ireland and in exercise of the powers conferred by section 4 of the Act, do hereby order as follows:—

Citation, etc.

1.—(1) This Order may be cited as the Ministries (Transfer of Functions) Order (Northern Ireland) 1968.

(a) 1944. c. 14.

*A draft of this Order in Council was laid before the Senate on 5th December 1967, and before the House of Commons on 14th December 1967, and lay for the statutory period.

(2) In this Order—

“transfer date” means 1st April 1968:

“transferor” means the Ministry of Finance; and

“transferee” means the Ministry of Agriculture.

(3) This Order shall have effect subject to the provisions of any Order in Council which may hereafter be made under section 4 of the Act.

Transfer of certain functions of the transferor

2. The functions exercisable immediately before the transfer date by the transferor under or for the purposes of the enactments set out in the Schedule shall be, and are hereby, transferred as from that date to the transferee.

Effect of Order

3. The Notification entitled “Assignment of Functions to Departments” issued by the Lord Lieutenant of Ireland on 7th June 1921, and altered by subsequent enactments, shall so far as it relates to the transferor or the transferee, have effect subject to this Order.

References in enactments, etc., to transferor

4.—(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, rule, regulation, byelaw, certificate or other document passed or made before the transfer date, 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 transfer date, but any such matter shall, if in force immediately before that date, 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 transfer date, 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 transfer date 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.

Transfer of property, etc.

5.—(1) All property, rights and liabilities held, enjoyed or incurred before the transfer date by the transferor in connection with the functions transferred to the transferee by this Order shall be transferred to the transferee as from the transfer date; and, accordingly, as from that date 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.

(2) Any such property which, at the date of transfer, was entered on any register kept in pursuance of any enactment, or (being movable property) was standing in the books of any corporation or company, in the name of the transferor, shall on the written request of the transferee be transferred into the name of the transferee by the person responsible for keeping such register or books.

Given at Government House, Hillsborough, this 22nd day of March, 1968.

J. D. Chichester-Clark

W. K. Fitzsimmons

R. W. B. McConnell

SCHEDULE

Enactments relating to functions transferred by this Order

The Turbary (Ireland) Act 1891.

Section 13(1), (2) and (5) of the Irish Land Act 1903 and so much of subsection (4) of that section as relates to sporting rights.

Sections 20 and 21 of the Irish Land Act 1903.

Section 18(2) of the Irish Land Act 1909.

Sections 15, 26 and 27 of the Northern Ireland Land Act 1925.

Section 4(2) of the Northern Ireland Land Act 1929.

So much of sections 3, 4, 5 and 7 of the Northern Ireland Land Purchase (Winding Up) Act 1935 as relates to functions exercisable under any of the enactments above mentioned.

So much of section 10 of the Northern Ireland Land Purchase (Winding Up) Act 1935 as confers on the transferor any rights of inspection or custody in connection with the performance of any functions exercisable under any of the enactments above mentioned.

EXPLANATORY NOTE

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

This Order provides for the transfer, from the Ministry of Finance to the Ministry of Agriculture, of functions arising under the Land Purchase Acts in relation to sporting rights (including fishing rights), turbary and to certain grazing, drainage and improvement schemes.

The transfer will take effect on 1st April 1968.