



# Local Government Act 1958

## 1958 CHAPTER 55

### PART III

#### DELEGATION OF FUNCTIONS TO COUNCILS OF COUNTY DISTRICTS

##### *Health and Welfare functions*

#### **46 Schemes for exercise of health and welfare functions by councils of county districts**

(1) The following functions of a county council shall, so far as they relate to a county district for which a scheme under this section (in this Part of this Act referred to as a delegation scheme) is in force, be exercisable by the council of that district on behalf of the county council, that is to say, their functions under—

- (a) Part III of the National Health Service Act, 1946, except the functions mentioned in paragraph (g) of this subsection and the functions under section twenty-seven of that Act (which relates to ambulances),
- (b) sections twenty-nine and thirty of the National Assistance Act, 1948 (which relate to welfare arrangements for disabled persons),
- (c) the Nurseries and Child-Minders Regulation Act, 1948,
- (d) the Lunacy and Mental Treatment Acts, 1890 to 1930, and the Mental Deficiency Acts, 1913 to 1938,
- (e) subsection (2) of section fifty-one of the National Health Service Act, 1946 (which relates to contributions to voluntary organisations in connection with functions under the Mental Deficiency Acts, 1913 to 1938);

and, subject to subsection (2) of this section, their functions under—

- (f) Part III of the National Assistance Act, 1948, so far as it relates to residential or temporary accommodation, and
- (g) section twenty-eight of the National Health Service Act, 1946, so far as it relates to the care in residential accommodation of persons suffering from mental illness or to the after-care in such accommodation of such persons.

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- (2) The functions mentioned in paragraphs (f) and (g) of the foregoing subsection shall not be exercisable under a delegation scheme by the council of a county district, and accordingly provisions for their exercise shall not be included in a delegation scheme, except with the consent of the Minister of Health; and the Minister's consent may be given as respects all or any of those functions, and shall on the application of the council be given if the Minister is satisfied after consultation with the county council that there are exceptional circumstances justifying the exercise of the functions by the council of the county district, but shall not be given in any other case.
- (3) A delegation scheme may be made by the council of any county district which is a borough or urban district having a population of sixty thousand or more and, with the consent of the Minister of Health, by the council of any other county district; and the Minister shall give his consent if satisfied, after consultation with the county council and such other councils as may appear to him to be concerned, and such other consultations (if any) as he may think desirable, that there are special circumstances by reason of which the council of the county district ought to be allowed to make the scheme, but shall not give his consent in any other case.
- (4) The functions exercisable by the council of a county district by virtue of a delegation scheme shall be included among the functions which, under section eighty-five of the Act of 1933, may be delegated by the council to a committee appointed by them under that section; but nothing in this section shall be taken as applying to such a council the provisions of Part II of the Fourth Schedule to the National Health Service Act, 1946 or Part I of the Third Schedule to the National Assistance Act, 1948 as to the establishment of committees.
- (5) Any power of a county council, in the exercise of functions with respect to which provision is made in a delegation scheme, to make contributions to voluntary organisations may, in relation to the county district for which the scheme is in force, be exercised by the county council as well as the council of that district.
- (6) Nothing in subsection (1) of this section shall be taken as including among the functions exercisable under a delegation scheme any power of a county council to borrow money or issue a precept for a rate.
- (7) A delegation scheme may prescribe conditions subject to which the functions exercisable thereunder are to be exercised, and shall specify the date on which it is to come into operation, shall make provision for the determination by the Minister of Health of questions arising as to the operation of the scheme, and may make provision for incidental and supplementary matters necessary or expedient for the purposes of the scheme (including provision as to financial matters and in particular as to the submission and approval of estimates and accounts, and the manner in which and times at which the council of the county district are to be reimbursed by the county council for expenditure incurred in the exercise of the functions exercisable under it).

#### **47 Procedure for bringing delegation scheme into operation**

- (1) A delegation scheme shall be transmitted to the county council and submitted by them to the Minister of Health and shall not come into operation until after it has been approved by that Minister.
- (2) Before making a delegation scheme the council of a county district shall give notice to the county council of their intention to do so (except in the case mentioned in subsection (4) of this section) and shall consult the county council on the proposed

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scheme, and for that purpose shall state their proposals to the county council in the form of a draft scheme.

- (3) Subject to the following subsection, a notice under the foregoing subsection shall not be valid, and a delegation scheme shall not be submitted to the Minister of Health, unless the notice is given within a period of six months, and the scheme transmitted to the county council within a period of twelve months, beginning (in either case) on the day, or ten or a greater multiple of five years after the day, on which this Act is passed.
- (4) An application for the consent of the Minister of Health under subsection (2) or (3) of section forty-six of this Act shall not be entertained unless it is made within such a period of six months as is mentioned in the foregoing subsection; but where such an application has been duly made—
  - (a) no notice need be given under subsection (2) of this section but the Minister shall notify the county council of his decision on the application; and
  - (b) the period of twelve months mentioned in the foregoing subsection shall, if necessary, be extended so as not to expire until six months from the time at which the council making the scheme are notified of the Minister's decision.
- (5) Where by an order of the Minister made in pursuance of a review by either of the Commissions or in pursuance of the review which a county council are required to undertake by section twenty-eight of this Act, a county district becomes comprised in a county in which it was not previously comprised, or a new county district has been constituted (whether on an amalgamation, by the conversion of a county borough into a non-county borough or otherwise) or the area of a county district has been altered, subsections (3) and (4) of this section shall have effect, in relation to a scheme made by the council of that county district, as if a further date were specified in the said subsection (3) as a day on which the periods mentioned therein may begin, namely the first date on which an estimate of the population of the district as at a time after the coming into operation of the order is published by the Registrar General for England and Wales.
- (6) After submitting a delegation scheme a county council shall publish a notice stating that the scheme has been submitted to the Minister of Health and that representations may be made to him in writing within two months from the publication of the notice; and in publishing any such notice the council shall comply with such regulations (if any) as to the form or manner in which the notice is to be published as may be made by the Minister of Health.
- (7) The Minister of Health, after considering any representations duly made and not withdrawn, and after consultation with the county council and such other consultations (if any) as he may think desirable, shall approve the scheme either as submitted or with modifications; and the scheme shall have effect in the form approved by him.
- (8) In determining whether the consent of the Minister of Health under subsection (3) of section forty-six of this Act is required for the making of a scheme by the council of a borough or urban district any estimate of the population of the borough or urban district published after the beginning of the period within which the scheme may under subsection (3) of this section be transmitted to the county council shall be disregarded for the purposes of section sixty-five of this Act.

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#### **48 Variation and revocation of delegation schemes**

- (1) A delegation scheme for any county district may be varied or revoked by a subsequent scheme made by the council of that district and approved by the Minister of Health ; and the foregoing provisions of this Part of this Act shall apply in relation to such a subsequent scheme as they apply in relation to delegation schemes, subject however to the modification that the consent of the Minister under subsection (3) of section forty-six of this Act shall not be required, whatever the circumstances of the county district.
- (2) Where it appears to the Minister of Health that it is expedient that a delegation scheme for any county district should be varied or revoked and the council of the district have not made a varying or revoking scheme he may, subject to the following subsection, require the council to make such a scheme within such time as may be specified in the requirement; and if the council do not comply with the requirement the Minister may himself, after consultation with the county council, make such a scheme as appears to him to be required, and any scheme so made shall have effect, and may be varied or revoked, as if it had been made by the council and approved by the Minister.
- (3) The Minister shall not require the revocation of a delegation scheme for a borough or urban district having a population of sixty thousand or more.

#### **49 Default powers of Minister of Health**

- (1) Where the Minister of Health is of opinion, on complaint or otherwise, that the council of any county district have failed to carry out any functions exercisable by them under a delegation scheme or have in carrying out those functions failed to comply with any regulations or directions relating thereto, he may, after such inquiry as he may think fit and after consultation with the county council, make an order declaring the council of the county district to be in default.
- (2) An order under the foregoing subsection shall direct the council of the county district, for the purpose of remedying the default, to discharge such of the said functions, and in such manner and within such time or times, as may be specified in the order, and if the council fail to comply with any direction given under this subsection, within the time limited for compliance therewith, the Minister of Health, in lieu of enforcing the order by mandamus or otherwise, may make an order providing for the exercise of the said functions by the county council during the continuance in force of the order, notwithstanding the delegation scheme.
- (3) An order under this section may contain such supplementary and incidental provisions as appear to the Minister of Health to be necessary or expedient, and may be varied or revoked by a subsequent order.
- (4) Section fifty-seven of the National Health Service Act, 1946 (which confers default powers on the Minister of Health) shall apply in relation to any functions exercisable by a county council under this Part of this Act as it applies in relation to functions exercisable by a local health authority under that Act.

#### **50 Proposals and schemes under National Health Service Act, 1946 and National Assistance Act, 1948**

- (1) The functions exercisable under a delegation scheme do not include the submission of proposals under subsection (4) of section twenty of the National Health Service Act, 1946, or of that section as applied by section fifty-one of that Act, or the amendment

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or revocation of schemes under subsection (3) of section twenty-one or subsection (3) of section twenty-nine of the National Assistance Act, 1948; but the council of a county district for which a delegation scheme is in force may from time to time submit to the county council proposals for the submission of new proposals under the said subsection (4) (or that subsection as applied by the said section fifty-one) or for the amendment or revocation of a scheme under subsection (3) of the said section twenty-nine and, if the delegation scheme includes provision for the exercise of the functions mentioned in paragraph (f) of subsection (1) of section forty-six of this Act, for the amendment or revocation of a scheme under subsection (3) of the said section twenty-one.

- (2) A county council may adopt proposals submitted under the foregoing subsection and exercise their powers of submitting new proposals or varying or revoking schemes so as to give effect thereto ; and—
- (a) in any case in which they do not exercise those powers so as to give full effect to the proposals of the council of the county district they shall forward a copy of those proposals to the Minister of Health with their observations thereon; and
  - (b) if the county council submit to the Minister (whether on their own initiative or in compliance with a direction given by him) new proposals, or a scheme, which fail or fails to give full effect to proposals of the council of a county district, the power of the Minister to approve the new proposals or scheme with modifications shall include power to make any alteration thereof, omission therefrom or addition thereto which is required for giving effect to any of the proposals of that council.

## **51 Application of foregoing provisions to joint boards**

- (1) The foregoing provisions of this Part of this Act shall apply in relation to joint boards, other than those excepted from those provisions, as they apply in relation to county councils.
- (2) A joint board constituted under Part II of this Act of which any of the constituent members is the council of a county district shall be excepted from the foregoing provisions of this Part of this Act.