The Transfer of Functions (Minister of Health and Minister of Local Government and Planning) (No. 2) Order, 1951

1951 No. 753

Made - - - -	28*th April*, 1951
Laid before Parliament	30*th April*, 1951
Coming into Operation	1*st May*, 1951

At the Court at Buckingham Palace, the 28th day of April, 1951

Present,

The King's Most Excellent Majesty in Council

His Majesty, in pursuance of the Ministers of the Crown (Transfer of Functions) Act, 1946(**a**), is pleased, by and with the advice of His Privy Council to order, and it is hereby ordered, as follows:—

1.—(1) This Order may be cited as the Transfer of Functions (Minister of Health and Minister of Local Government and Planning) (No. 2) Order, 1951.

(2) In this Order the expression "the No. 1 Order" means the Transfer of Functions (Minister of Health and Minister of Local Government and Planning) (No. 1) Order, 1951(**b**).

(3) The Interpretation Act, 1889(**c**), applies for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

(4) This Order shall come into operation on the first day of May, nineteen hundred and fifty-one.

2.—(1) There are hereby transferred to the Minister of Local Government and Planning the functions of the Minister of Health under the enactments specified in the First Schedule to this Order.

(2) There are hereby transferred to the Minister of Local Government and Planning any functions exercisable by the Minister of Health—

(*a*) by virtue of any loan made by the Minister of Health under the Essential Buildings and Plant (Repair of War Damage) Act, 1939(**d**); or

(*b*) by virtue of section eight of the Distribution of Industry Act, 1945(**e**), or by virtue of any grant or loan made by that Minister under section three of that Act before the coming into operation of this Order.

(3) There are hereby transferred to the Minister of Local Government and Planning the functions of the Minister of Health under section two hundred and ninety of the Public Health (London) Act, 1936(**f**), which were excepted from transfer to the Minister of Local Government and Planning by the No. 1 Order.

3.—(1) There are hereby transferred to the Minister of Local Government and Planning the functions of the Minister of Health under any enactment

(a) 9 & 10 Geo. 6. c. 31.
(b) S.I. 1951 No. 142, p. 1348 above.
(c) 52 & 53 Vict. c. 63.
(d) 2 & 3 Geo. 6. c. 74.
(e) 8 & 9 Geo. 6. c. 36.
(f) 26 Geo. 5 & 1 Edw. 8. c. 50.

contained in a local Act or provisional order, except in so far as those functions are exercisable as to any of the following matters:—

(*a*) the provision of services under Part IV of the National Health Service Act, 1946(**a**), where the boundaries of a county borough are altered;

(*b*) the prevention of infectious disease;

(*c*) the appointment of medical officers of health and sanitary inspectors;

(*d*) the confirmation of byelaws as to food.

(2) Where any byelaws as to food are by virtue of any such enactment as aforesaid required to be confirmed under section one hundred and eighty-four of the Public Health Act, 1875(**b**), those byelaws shall, notwithstanding anything in the No. 1 Order, be required to be confirmed by the Minister of Health.

4. Notwithstanding anything in the No. 1 Order—

(*a*) the power to authorise a compulsory purchase of land by a county council conferred by section one hundred and fifty-nine of the Local Government Act, 1933(**c**), or section one hundred of the London Government Act, 1939(**d**), shall be exercisable by the Minister of Health in the case of a purchase for the purpose of functions of the council under the National Health Service Act, 1946, or the National Assistance Act, 1948(**e**);

(*b*) the Minister of Health may require reports and returns to be made to him, and information to be given to him, under section two hundred and eighty-four of the Local Government Act, 1933, or section one hundred and seventy-four of the London Government Act, 1939, for the purpose of the exercise of any of his functions;

(*c*) any functions which by section two hundred and ninety of the Local Government Act, 1933, or section one hundred and eighty-nine of the London Government Act, 1939, were expressed to be exercisable by the Minister of Health, either as such or as being within the definitions of a department in those sections respectively, shall be exercisable by him in relation to any inquiry which he is authorised under any Act other than those Acts to hold.

5.—(1) There are hereby transferred to the Minister of Local Government and Planning the functions of the Minister of Health under the regulations specified in the Second Schedule to this Order, subject to the exception therein specified, being regulations made by the Minister of Health as a designated Minister for the purposes of the Civil Defence Act, 1948(**f**).

(2) There are hereby transferred to the Minister of Local Government and Planning the functions of the Minister of Health under the Local Land Charges Rules, 1934(**g**).

(3) There are hereby transferred to the Minister of Local Government and Planning the functions of the Minister of Health under the scheme for the regulation and management of the charity known as the Sutton Dwellings Trust approved by the High Court on the seventeenth day of January, nineteen hundred and twenty-seven.

(**a**) 9 & 10 Geo. 6. c. 81. (**b**) 38 & 39 Vict. c. 55.
(**c**) 23 & 24 Geo. 5. c. 51. (**d**) 2 & 3 Geo. 6. c. 40.
(**e**) 11 & 12 Geo. 6. c. 29. (**f**) 12, 13 & 14 Geo. 6. c. 5.
(**g**) S.R. & O. 1934 (No. 285) I, p. 924.

6. In the Sixth Schedule to the Defence (General) Regulations, 1939, the following paragraph shall be inserted at the end of Part I thereof, as amended by the No. 1 Order, that is to say—

"16. The discharge by a local authority of any of their functions under Part III of the National Assistance Act, 1948.	The Minister of Health."

7.—(1) The Minister of Local Government and Planning shall be the appropriate Minister for the purposes of the Civil Aviation Act, 1949(**a**), in relation to an undertaking for the supply of water, and accordingly a reference to that Minister shall be substituted for the reference to the Minister of Health in the definition of "appropriate Minister" in section sixty-three of that Act.

(2) Anything which apart from the transfer of functions effected by the No. 1 Order would by virtue of the Town and Country Planning Act, 1944(**b**), the New Towns Act, 1946(**c**), the Town and Country Planning Act, 1947(**d**), or the National Parks and Access to the Countryside Act, 1949(**e**), be required or authorised to be done by or to the Minister of Local Government and Planning and the Minister of Health shall be done by or to the Minister of Local Government and Planning alone, or may be done by or to him alone, as the case may be, and references in those Acts to those Ministers in connection with any such requirement or authorisation shall be construed accordingly.

8.—(1) In the construction and for the purposes of any enactment (other than an enactment contained in the Ministers of the Crown Act, 1937(**f**)), regulation, byelaw, judgment, award, order, rule, deed, contract, certificate or other document passed or made before the coming into operation of this Order, any reference to, or which is to be construed as a reference to, the Minister of Health or his officers or department shall, so far only as may be necessary for or in consequence of the transfer of functions effected by this Order, be construed as a reference to the Minister of Local Government and Planning or his officers or department.

(2) The transfer of functions effected by this Order shall not prejudice the operation of any regulation, order, rule, appointment, determination, direction, instruction, approval, consent, requirement, authorisation or other thing made, given or done by the Minister of Health in relation to the functions transferred by this Order and before the coming into operation thereof, but any such matter shall, if then in force, 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 Minister of Local Government and Planning.

(3) Anything commenced before the coming into operation of this Order by or under the authority of the Minister of Health may, so far as it relates to any functions transferred by this Order, be carried on or completed by or under the authority of the Minister of Local Government and Planning.

(4) Where at the coming into operation of this Order any legal proceeding is pending to which the Minister of Health is a party and the proceeding has reference to any of the functions transferred by this Order, the Minister of

(**a**) 12, 13 & 14 Geo. 6. c. 67.
(**b**) 7 & 8 Geo. 6. c. 47.
(**c**) 9 & 10 Geo. 6. c. 68.
(**d**) 10 & 11 Geo. 6. c. 51.
(**e**) 12, 13 & 14 Geo. 6. c. 97.
(**f**) 1 Edw. 8 & 1 Geo. 6. c. 38.

Local Government and Planning shall be substituted in the proceeding for the Minister of Health, and the proceeding shall not abate by reason of the substitution.

(5) There are hereby transferred to the Minister of Local Government and Planning all property and rights held or enjoyed by the Minister of Health immediately before the coming into operation of this Order in connection with any of the functions hereby transferred, and all liabilities then incumbent on the Minister of Health in connection with any of those functions.

(6) Where functions of the Minister of Health under any enactment are by this Order or the No. 1 Order transferred to the Minister of Local Government and Planning, the transfer shall be treated as including corresponding functions of the Minister of Health under that enactment as incorporated with any other enactment.

(7) Any reference in the No. 1 Order to retained Health functions or to Health matters as defined in that Order shall be construed subject to any provision of this Order providing for the transfer to the Minister of Local Government and Planning of any functions of the Minister of Health excepted from transfer by the No. 1 Order.

E. C. E. Leadbitter.

FIRST SCHEDULE

Enactments Conferring Functions Transferred

Local Government Superannuation

The Local Government Superannuation Acts, 1937 and 1939 (1 Edw. 8 & 1 Geo. 6. c. 68, 2 & 3 Geo. 6. c. 18).
The Superannuation (Miscellaneous Provisions) Act, 1948 (11 & 12 Geo. 6. c. 33).
The Pensions (Increase) Acts, 1944 and 1947 (7 & 8 Geo. 6. c. 21, 10 & 11 Geo. 6. c. 7).
The Local Government (Clerks) Act, 1931 (21 & 22 Geo. 5. c. 45).
In the National Health Service Act, 1946 (9 & 10 Geo. 6. c. 81), in section sixty-seven, paragraph (*b*) of subsection (1), and paragraphs (*g*) to (*k*) of that subsection so far as they are applicable in relation to regulations made under the said paragraph (*b*).
The Justices of the Peace Act, 1949 (12, 13 & 14 Geo. 6. c. 101).

Local Government Finance

The London Government Act, 1899 (62 & 63 Vict. c. 14).
The Local Authorities (Financial Provisions) Act, 1921 (11 & 12 Geo. 5. c. 67).
The London Government Act, 1950 (14 Geo. 6. c. 22).

The Local Loans Act, 1875 (38 & 39 Vict. c. 83).
The Public Works Loans Act, 1875 (38 & 39 Vict. c. 89).
The Public Works Loans Act, 1878 (41 & 42 Vict. c. 18).
The Public Works Loans Act, 1881 (44 & 45 Vict. c. 38).
The Public Works Loans Act, 1882 (45 & 46 Vict. c. 62).

The Allotments Acts, 1908 to 1931.
The Poor Law Amendment Act, 1834 (4 & 5 Will. 4. c. 76).
The Commons Act, 1899 (62 & 63 Vict. c. 30).
The Finance Act, 1908 (8 Edw. 7. c. 16).
The Finance (1909-10) Act, 1910 (10 Edw. 7. & 1 Geo. 5. c. 8).
The London Passenger Transport Act, 1933 (23 & 24 Geo. 5. c. 14).
The Tithe Act, 1936 (26 Geo. 5. & 1 Edw. 8. c. 43).
In the Civil Defence Act, 1939 (2 & 3 Geo. 6. c. 31), section thirty-four, subsection (3) of section fifty-three, and subsection (4) of section fifty-six.

In the Statutory Orders (Special Procedure) Act, 1945 (9 & 10 Geo. 6. c. 18), section seven.
The Agriculture Act, 1947 (10 & 11 Geo. 6. c. 48).
In the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950 (14 Geo. 6. c. 35), subsection (3) of section seven, and subsection (2) of section eighteen.

Local Authorities' Land

The Places of Worship Sites Amendment Act, 1882 (45 & 46 Vict. c. 21).
The Metropolitan Police Act, 1886 (49 & 50 Vict. c. 22).
The Post Office Act, 1908 (8 Edw. 7. c. 48).
The Restriction of Ribbon Development Act, 1935 (25 & 26 Geo. 5. c. 47).
In the Town and Country Planning Act, 1944 (7 & 8 Geo. 6. c. 47), the Fifth Schedule.
In the Requisitioned Land and War Works Act, 1945 (8 & 9 Geo. 6. c. 43), sections twenty-six and fifty-two.
In the Acquisition of Land (Authorisation Procedure) Act, 1946 (9 & 10 Geo. 6. c. 49), section seven.
In the Town and Country Planning Act, 1947 (10 & 11 Geo. 6. c. 51), sections forty-two, one hundred and two, and one hundred and fourteen.
In the Children Act, 1948 (11 & 12 Geo. 6. c. 43), section fifty-six.
In the Civil Aviation Act, 1949 (12, 13 & 14 Geo. 6. c. 67), section nineteen.
The War Damaged Sites Act, 1949 (12, 13 & 14 Geo. 6. c. 84).

Public Health

The Metropolis Water Act, 1852 (15 & 16 Vict. c. 84).
The Metropolis Water Act, 1871 (34 & 35 Vict. c. 113).
The Metropolis Water Act, 1899 (62 & 63 Vict. c. 7).
The Metropolis Water Act, 1902 (2 Edw. 7. c. 41).
The Land Drainage Act, 1930 (20 & 21 Geo. 5. c. 44).
The Reservoirs (Safety Provisions) Act, 1930 (20 & 21 Geo. 5. c. 51).
In the Fire Services Act, 1947 (10 & 11 Geo. 6. c. 41), section fourteen.

The Public Libraries Acts, 1892 to 1919.
The Physical Training and Recreation Act, 1937 (1 Edw. 8. & 1 Geo. 6. c. 46).
The Recreation Grounds Act, 1859 (22 Vict. c. 27).
The Public Improvements Act, 1860 (23 & 24 Vict. c. 30).

In the Public Health Act, 1936 (26 Geo. 5 & 1 Edw. 8. c. 49), section one hundred and ninety-eight.
In the Public Health (London) Act, 1936 (26 Geo. 5. & 1 Edw. 8. c. 50), Part X.
The Cremation Act, 1902 (2 Edw. 7. c. 8).

The Markets and Fairs (Weighing of Cattle) Acts, 1887 to 1926.
The Slaughter of Animals Act, 1933 (23 & 24 Geo. 5. c. 39).
In the Food and Drugs Act, 1938 (1 & 2 Geo. 6. c. 56), section thirty-nine, Part V, section seventy-five, section ninety-one so far as it relates to byelaws under Part V, subsection (6) of section ninety-two, and section ninety-five.

The Steam Whistles Act, 1872 (35 & 36 Vict. c. 61).
The Brine Pumping (Compensation for Subsidence) Act, 1891 (54 & 55 Vict. c. 40).
The Petroleum (Consolidation) Act, 1928 (18 & 19 Geo. 5. c. 32).

Miscellaneous

The Local Government Staffs (War Service) Act, 1939 (2 & 3 Geo. 6. c. 94).
The Compensation of Displaced Officers (War Service) Act, 1945 (8 & 9 Geo. 6. c. 10).

The Ancient Monuments Acts, 1913 and 1931 (3 & 4 Geo. 5. c. 32, 21 & 22 Geo. 5. c. 16).
The Roads Improvement Act, 1925 (15 & 16 Geo. 5. c. 68).
The Local Authorities (Publicity) Act, 1931 (21 & 22 Geo. 5. c. 17).
The Architects Registration Acts, 1931 to 1938.
The Factories Act, 1937 (1 Edw. 8. & 1 Geo. 6. c. 67).
The Statistics of Trade Act, 1947 (10 & 11 Geo. 6. c. 39).
The House of Commons (Redistribution of Seats) Act, 1949 (12, 13 & 14 Geo. 6. c. 66).
The Representation of the People Act, 1949 (12, 13 & 14 Geo. 6. c. 68).
The Festival of Britain (Supplementary Provisions) Act, 1949 (12, 13 & 14 Geo. 6. c. 102).

SECOND SCHEDULE

REGULATIONS UNDER THE CIVIL DEFENCE ACT, 1948, CONFERRING FUNCTIONS TRANSFERRED

The Civil Defence (Burial) Regulations, 1949 (S.I. 1949 No. 2145).
The Civil Defence (Evacuation and Care of the Homeless) Regulations, 1949 (S.I. 1949 No. 2147), except in so far as those regulations relate to the care of persons who owing to hostile action or a threat of hostile action are made homeless or leave their homes or are refugees or persons repatriated from abroad.
The Civil Defence (Sewerage) Regulations, 1949 (S.I. 1949 No. 2149).
The Civil Defence (Water Supplies) Regulations, 1949 (S.I. 1949 No. 2150).
The Civil Defence (Demolition and Repair Services) Regulations, 1950 (S.I. 1950 No. 1258).

EXPLANATORY NOTE

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

This Order in Council is made under the Ministers of the Crown (Transfer of Functions) Act, 1946. The Transfer of Functions (Minister of Health and Minister of Local Government and Planning) (No. 1) Order, 1951, transferred to the Minister of Local Government and Planning certain major functions of the Minister of Health, and this Order in Council is designed to transfer the remainder of the functions of the Minister of Health which relate to matters other than health.

The majority of the functions transferred are set out in the First and Second Schedules to the Order in Council, being functions relating to such matters as—

Local government superannuation.
Local government finance.
Local authorities' land.
Public health.
Civil defence.

The Order in Council also contains provisions amending the Transfer of Functions (Minister of Health and Minister of Local Government and Planning) (No. 1) Order, 1951, by constituting the Minister of Health the appropriate Minister for confirming compulsory purchase orders made by county councils for the purposes of the National Health Service Act, 1946, or the National Assistance Act, 1948, and by making available to the Minister of Health as well as the Minister of Local Government and Planning certain general powers in regard to reports, returns and inquiries which are contained in the Local Government Act, 1933, and the London Government Act, 1939.

The Order in Council also contains provisions rendered necessary by the transfer of functions.