

1973 No. 1228 (N.I. 16)

NORTHERN IRELAND

The Enterprise Ulster (Northern Ireland) Order 1973

Laid before Parliament in draft

Made

16th July 1973

Coming into operation on days to be appointed under Article 1

At the Court at Buckingham Palace, the 16th day of July 1973

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by section 1(3) of the Northern Ireland (Temporary Provisions) Act 1972(a), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Title and commencement

1. This Order may be cited as the Enterprise Ulster (Northern Ireland) Order 1973 and shall come into operation on such day or days as the Minister may by order appoint.

Interpretation and temporary provision

2.—(1) The Interpretation Act (Northern Ireland) 1954(b) shall apply to Article 1 and the following provisions of this Order as it applies to an Act of the Parliament of Northern Ireland.

(2) In this Order—

“the Comptroller and Auditor-General” means the Comptroller and Auditor-General for Northern Ireland;

“the Corporation” means Enterprise Ulster;

“government department” means a department of the Government of Northern Ireland;

“the Minister” means the Minister of Health and Social Services;

“the Ministry” means the Ministry of Health and Social Services;

“public body” means a body (including a district council) established by or under any transferred provision but does not include a government department;

“transferred provision” has the meaning assigned to it by section 1(g) of the Interpretation Act (Northern Ireland) 1954.

(3) So long as section 1 of the Northern Ireland (Temporary Provisions) Act 1972 has effect—

(a) subsection (1)(a) of that section applies to all functions which are conferred by this Order on the Minister;

(b) paragraph 4(5) of the Schedule to that Act applies to any order which under this Order is subject to affirmative resolution.

Enterprise Ulster

3.—(1) There shall be established a body corporate with perpetual succession to be called Enterprise Ulster to which section 19 of the Interpretation Act (Northern Ireland) 1954 shall apply.

(2) The Corporation shall have such functions as are conferred on it by this Order.

(3) The constitution of the Corporation shall be as provided in that behalf in Part I of Schedule 1, and the supplementary provisions contained in Part II of that Schedule shall have effect.

(4) Subject to any arrangements made with a government department under Article 4(4)(d), the Corporation shall not be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown or as exempt from any tax, duty, rate, levy, or other charge whatsoever, whether general or local, and its property shall not be regarded as the property of, or property held on behalf of, the Crown but nothing in this Order shall be construed as derogating from any privilege, immunity or exemption of the Crown in relation to any matter as respects which the Corporation acts as agent of the Crown by virtue of Article 4(4)(d).

Functions of the Corporation

4.—(1) For the purpose of creating employment in Northern Ireland the Corporation may, subject to and in accordance with any directions given by the Ministry under paragraph (7), do anything which the Corporation considers to be of environmental, amenity, cultural, community or social value and may evaluate the need for or make preparations for or concert, promote, assist or undertake suitable action for the carrying out of works or activities which it considers to be of such value and to be directly or indirectly conducive to that purpose.

(2) The Corporation may conduct, promote or assist research or investigations into any aspects of unemployment in Northern Ireland or any part of it (including the causes of and remedies for unemployment) in so far as the Corporation considers any such research or investigation consistent with the objects of the Corporation.

(3) Any government department may co-operate with the Corporation in any research or investigation under paragraph (2) if, apart from this paragraph, it would not have power to do so.

(4) Without prejudice to the generality of paragraphs (1) and (2), the Corporation may—

- (a) give assistance by way of grant to any person proposing to carry out, or carrying out, any work or activity such as is mentioned in paragraph (1) or any research or investigation such as is mentioned in paragraph (2);
 - (b) contribute towards expenses incurred by any person in preparing for submission to the Corporation proposals for any such work, activity, research or investigation;
 - (c) delegate to any person (including government departments) the carrying out of any such work, activity, research or investigation;
 - (d) act as agent for any person (including government departments) in relation to any matter within the scope of the Corporation's functions;
- and may do so on such terms and conditions as may be agreed between the Corporation and the person concerned.

(5) Any assistance by way of grant under paragraph (4)(a) to a person other than a government department or public body shall not exceed one half of the cost of the work or activity except where the Ministry with the consent of the Ministry of Finance authorises the payment of a larger grant in any particular case.

(6) Where a person proposing to carry out any work, activity, research or investigation as mentioned in paragraph (4)(a), (b) or (c) is a body corporate or unincorporate, that body shall have power to carry out the work, activity, research or investigation if, apart from this paragraph, it would not have power to do so; but a body shall not do anything by virtue of this paragraph—

- (a) if it is expressly prohibited by its constitution from doing that thing; or
- (b) where it is a public body, otherwise than with the consent of the Ministry concerned.

(7) The Ministry may, after consultation with the Corporation, give to the Corporation directions of a general or specific nature as to the discharge of its functions under this Order and the Corporation shall act in accordance with those directions.

(8) In paragraph (6)(b) "the Ministry concerned", in relation to any public body, means the government department concerned with the functioning of the body, and if any question arises as to what department is the Ministry concerned, the question shall be determined by the Ministry of Finance.

(9) The Ministry may by order made with the approval of the Ministry of Finance and subject to affirmative resolution alter the functions of the Corporation, and any such order may modify or repeal any of the foregoing provisions of this Article.

Power to obtain information

5.—(1) For the purpose of obtaining information reasonably required by the Corporation in order to allow the Corporation to create employment in Northern Ireland the Corporation may with the approval of the Ministry by notice in writing served on a public body preparing proposals for the carrying out of or proposing to carry out works or activities such as are mentioned in Article 4(1), require that body to furnish to the Corporation such information as may reasonably be specified in the notice.

(2) For the purpose of obtaining information reasonably required by a district council as to any proposals of the Corporation for the district of that

council, the district council may with the approval of the Ministry of Development by notice in writing served on the Corporation, require the Corporation to furnish to the council such information as may reasonably be specified in the notice.

(3) A notice under paragraph (1) or (2) may require any such information to be furnished in such manner and within such time as may be specified in the notice, and either periodically or on one occasion or more.

Powers with respect to land

6.—(1) The power of the Corporation to acquire or dispose of land shall not be exercisable otherwise than with the consent of the Ministry and the Ministry of Finance.

(2) The Corporation may acquire compulsorily in accordance with the following provisions of this Article any land which it may require for the purposes of its functions under the Order.

(3) Where the Corporation in exercise of the power conferred by paragraph (2) desires to acquire any land otherwise than by agreement, it may apply to the Ministry for an order (in this Article referred to as a “vesting order”) vesting the land in the Corporation and the Ministry shall have power to make a vesting order.

(4) Schedule 6 to the Local Government Act (Northern Ireland) 1972^(a) shall apply for the purposes of the acquisition of land by means of a vesting order made under this Article in the same manner as it applies to the acquisition of land by means of a vesting order under that Act subject to the following modifications—

- (a) for any reference to the district council there shall be substituted a reference to the Corporation;
- (b) for any reference to the Ministry concerned there shall be substituted a reference to the Ministry;
- (c) for any reference to that Act there shall be substituted a reference to this Order.

(5) The power to make a vesting order in respect of land—

- (a) which is the property of any public body which has power under any transferred provision to acquire land compulsorily; or
 - (b) which is declared by or under any transferred provision to be inalienable;
- shall not, where representations objecting to the proposal for making the order have been duly made by the owner of the land and have not been withdrawn, be exercised in relation to that land unless the proposal for making the order has been approved by a resolution of each House of Parliament.

Power to enter on land

7.—(1) A person authorised in writing by the Corporation (in this Article referred to as an “authorised person”) may, on production if required of his credentials, at any reasonable time enter any land for the purpose of survey, valuation or examination—

- (a) where the Corporation proposes to acquire the land compulsorily under Article 6; or
- (b) where it appears to the Corporation that survey, valuation or examination is necessary in order to determine whether the land should be so acquired.

(a) 1972 c. 9 (N.I.).

(2) A power of entry under paragraph (1) shall not be exercisable in relation to any land except—

(a) with consent given by the occupier of the land; or

(b) after at least twenty-four hours' notice of the intended entry has been served on the occupier or owner of the land.

(3) If any person, other than the owner or occupier of the land, knowingly prevents an authorised person from carrying out anything which the authorised person is duly authorised to do or obstructs the authorised person in carrying out any such thing, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £20.

(4) If any person, being the owner or occupier of land, knowingly prevents an authorised person from duly carrying into effect any survey, valuation or examination of the land or obstructs the authorised person in doing any such survey, valuation or examination, a court of summary jurisdiction on proof thereof may order him to permit to be done on the land all things requisite for carrying into effect such survey, valuation or examination; and, if he fails to comply with the order, he shall be guilty of an offence and shall, for every day during which the failure continues, be liable on summary conviction to a fine not exceeding £20.

(5) Where under this Article an authorised person enters any land, he shall ensure that the land is not left less secure by reason of the entry, and the Corporation shall make good or pay compensation for any damage to property caused by, or in consequence of, the authorised person exercising any right or failing to perform any duty under this Article.

(6) Any question of disputed compensation under this Article shall be referred to and determined by the Lands Tribunal.

(7) Any reference in this Article to an occupier or to an owner shall be construed as including a reference to a person appointed in writing by the occupier or owner as his representative for purposes including all or any of the purposes of this Article.

(8) Any power conferred by this Article shall be construed as including power to search and bore for the purpose of ascertaining the course of any sewers or drains or of ascertaining the nature of the subsoil therein and to take and carry away for examination specimens of the subsoil found therein.

Expenses of the Corporation

8. For the purpose of enabling the Corporation to carry out its functions under this Order, the Ministry shall pay to the Corporation such sums as the Ministry may, with the approval of the Ministry of Finance, determine.

Accounts and audit

9.—(1) The Corporation shall keep proper accounts in such form as may be approved by the Ministry, and proper records in relation to the accounts and shall prepare in respect of the period ending on 31st March 1974 and in respect of each subsequent financial year a statement of accounts in such form as the Ministry, with the approval of the Ministry of Finance, may direct.

(2) The accounts of the Corporation shall be audited by auditors appointed by the Corporation with the approval of the Ministry and shall be vouched to the satisfaction of such auditors.

(3) The Corporation shall, at such time in each year as the Ministry may direct, transmit copies of the annual statement of accounts, certified by the auditors, to the Ministry and to the Comptroller and Auditor-General.

(4) The Comptroller and Auditor-General shall examine a copy of each annual statement of accounts and shall make a report thereon and shall send copies of that report to the Ministry and may in connection with such examination examine any accounts kept by the Corporation and any records relating thereto.

Reports

10.—(1) The Corporation shall as soon as possible—

(a) within a period of three months after 31st March 1974; and

(b) within a period of three months after the end of each subsequent financial year,

make to the Minister a report, in such form and containing such information as the Ministry may direct, on the performance of its functions in the case of paragraph (a) up to 31st March 1974 and in the case of paragraph (b) during the financial year mentioned in that paragraph.

(2) The Minister shall lay before each House of Parliament a copy of each report made to him under this Article together with a copy of each annual statement of accounts transmitted to the Ministry under Article 9(3) and of the report made by the Comptroller and Auditor-General thereon under Article 9(4).

Disclosure of information to the Ministry

11.—(1) The Corporation shall provide the Ministry with such returns and information relating to its activities as the Ministry may require.

(2) For that purpose, the Corporation shall permit any person authorised by the Ministry in that behalf to inspect and make copies of its accounts, books, documents and papers and shall afford such explanation thereof as that person or the Ministry may reasonably require.

Cesser of functions of the Corporation

12.—(1) The functions of the Corporation under Article 4 so far as they relate to new projects for the carrying out of works or activities shall cease on 31st March 1978; and in this paragraph "new project" means any project the works or activities for the implementation of which had not been approved by the Corporation on or before that date.

(2) The Ministry may by order made subject to affirmative resolution substitute any later date for the date mentioned in paragraph (1).

(3) Subject to paragraph (4), the Ministry may by order made subject to affirmative resolution make provision for and in connection with the dissolution and winding-up of the Corporation.

(4) On the dissolution of the Corporation for any reason whatsoever, the property of the Corporation and any rights or liabilities to which it is entitled or is subject shall vest in the Ministry, and may be enforced by and against the Ministry accordingly in its own name.

Expenses of the Ministry

13. Any expenses incurred by the Ministry under this Order may be defrayed out of money hereafter appropriated for the purpose of meeting those expenses.

Modification and exclusion of transferred provisions in relation to the Corporation

14.—(1) The Employer's Liability (Defective Equipment and Compulsory Insurance) (Northern Ireland) Order 1972(a) shall not require insurance to be effected by the Corporation.

(2) The Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965(b) shall have effect subject to the provisions of Schedule 2 in relation to the Corporation.

W. G. Agnew

SCHEDULES

SCHEDULE 1

Article 3(3).

ENTERPRISE ULSTER

PART I

THE CONSTITUTION OF THE CORPORATION

1. The Corporation shall consist of—

(a) a Chairman appointed by the Minister;

(b) not less than seven nor more than eleven other members appointed by the Minister of whom—

(i) two shall be appointed after consultation with such organisation representative of employers as appears to the Minister to be appropriate;

(ii) two shall be appointed after consultation with such organisation representative of workers as appears to the Minister to be appropriate.

2.—(1) A member of the Corporation shall hold and vacate his office in accordance with the terms of his appointment and shall, on ceasing to hold his office, be eligible for re-appointment.

(2) Any member may at any time by notice in writing to the Minister resign his office.

3. The Minister may, by notice in writing addressed to a member, terminate his appointment as a member of the Corporation if of the opinion that he is unfit to continue in office or incapable of performing his duties as a member.

4. The proceedings of the Corporation or any committee thereof shall not be invalidated by any vacancy in the membership of the Corporation or committee or by any defect in the appointment of any of its members.

PART II

SUPPLEMENTARY PROVISIONS AS TO THE CORPORATION

Remuneration

5. The Corporation may pay—

(a) to the Chairman and to the other members of the Corporation appointed under paragraph 1(b), such remuneration and such allowances for expenses;

(b) to persons attending meetings of the Corporation or any committee thereof, such allowances for expenses (including compensation for loss of remunerative time); and

(c) to persons who are not members of the Corporation but who at the invitation of the Corporation or any committee thereof act as advisers at meetings of the Corporation or committee held to consider matters on which those persons are specially qualified or otherwise, such fees,

as the Ministry with the approval of the Ministry of Finance may determine.

(a) S.I. 1972/963 (N.I. 6) (1972 II, p. 2998).

(b) 1965 c. 19 (N.I.).

Procedure

6.—(1) The Corporation may constitute one or more committees to which it may delegate such of its functions as it may specify.

(2) The functions and proceedings of any committee constituted under sub-paragraph (1) shall be exercised subject to, or regulated in accordance with, any directions of the Corporation.

(3) Such a committee may consist exclusively of persons who are members of the Corporation, or partly of such persons and partly of persons who are not members of the Corporation but who appear to the Corporation to be suitably qualified for service on the committee.

(4) A member of such a committee who is not a member of the Corporation shall have the same exemption from personal liability as if he were a member of the Corporation.

7. The Ministry and, if the Ministry thinks fit in a particular case or class of cases, such other Ministries as it may specify may each appoint one person to attend the meetings of the Corporation and of committees of the Corporation, and any person so appointed shall be entitled to take part in the proceedings of the meetings and receive copies of all documents distributed to the members, but shall have no vote.

Restrictions affecting members

8.—(1) A member of the Corporation who is in any way, directly or indirectly, interested in a contract made or proposed to be made by the Corporation shall, as soon as possible after the relevant circumstances have come to his knowledge, disclose the nature of his interest at a meeting of the Corporation; and the disclosure shall be recorded in the minutes of the Corporation, and the member shall not take part in any deliberation or decision of the Corporation with respect to that contract.

(2) Where under sub-paragraph (1) a member is prohibited from taking part in any deliberation or decision, that member shall be disregarded for the purpose of constituting a quorum of the Corporation for any such deliberation or decision.

(3) A member of the Corporation need not attend in person at a meeting of the Corporation in order to make any disclosure which he is required to make under this paragraph if he takes reasonable steps to secure that the disclosure is made by a notice which is brought up and read at the meeting.

9.—(1) In the Part substituted by section 10 of and Schedule 3 to the House of Commons Disqualification Act 1957(a) for Part II of Schedule 1 to that Act (which substituted Part lists bodies of which all members are disqualified for membership of the Senate or of the House of Commons of Northern Ireland) the following entry shall be inserted at the appropriate point in alphabetical order:—

Enterprise Ulster.

(2) In Part II of Schedule 1 to the Commissioner for Complaints Act (Northern Ireland) 1969(b) (public bodies subject to investigation) the following entry shall be inserted at the appropriate point in alphabetical order:—

Enterprise Ulster.

The seal

10. The seal of the Corporation shall be authenticated by the signature of the Chairman or some other member of the Corporation authorised by the Corporation to act for that purpose.

(a) 1957 c. 20.

(b) 1969 c. 25 (N.I.).

Execution of contracts and instruments not under seal

11. Any contract or instrument which, if entered into or executed by an individual would not require to be under seal may be entered into or executed on behalf of the Corporation by any person generally or specially authorised by the Corporation to act for that purpose and any document purporting to be such a contract or instrument shall be deemed to be such a contract or instrument until the contrary is proved.

Borrowing

12. The Corporation may borrow, by way of temporary loan or overdraft from a bank or otherwise, any sum which it may temporarily require for the purpose of defraying expenses pending the receipt of revenues receivable by the Corporation; but—

- (a) the total amount for the time being outstanding on foot of such borrowings shall not exceed such sum as the Ministry may with the approval of the Ministry of Finance specify in writing to the Corporation;
- (b) all sums so borrowed shall be repaid before the expiration of the financial year in which such sums are borrowed.

Staff

13.—(1) The number of persons employed by the Corporation who fall within a class specified by the Ministry for the purposes of this paragraph shall be determined by the Corporation subject to the approval of the Ministry.

(2) The Corporation shall not determine the remuneration of any person or class of persons employed by the Corporation otherwise than with the approval of the Ministry and the Ministry of Finance.

(3) The Corporation may pay to persons employed by it such allowances for expenses incurred in connection with the business of the Corporation as the Ministry with the approval of the Ministry of Finance may determine.

(4) The Corporation may, in the case of such persons employed by it as may be determined by the Corporation with the approval of the Ministry and the Ministry of Finance, pay to or in respect of them such pensions, allowances or gratuities, or provide and maintain for them such pension schemes (whether contributory or not) or contributory or other pension arrangements as may be so determined.

SCHEDULE 2

Article 14(2).

MODIFICATIONS OF THE CONTRACTS OF EMPLOYMENT AND REDUNDANCY
PAYMENTS ACT (NORTHERN IRELAND) 1965

1. Where a person who enters the employment of the Corporation was, immediately before the day on which he does so, occupied in employment to which this Schedule applies, then, for the purpose of ascertaining the length of the period of his employment for the purposes of sections 1 and 2 of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965 (in this Schedule referred to as "the Act of 1965") Schedule 1 to that Act shall have effect—

- (a) as if, in a case where he was so occupied otherwise than under a contract of service, employment of his to which this Schedule applies in which he was occupied otherwise than as aforesaid before that day had been employment within the meaning of the Act of 1965, and, while he was occupied therein, he had been an employee within the meaning of that Act, but as if, for paragraph 4 of that Schedule, there were substituted the following paragraph:—

"4. Any week during the whole or a part of which the terms of his employment normally involve employment for twenty-one hours or more weekly shall count in computing a period of employment.";

and

- (b) as if, in any case, subject to paragraph 2, the period, ending immediately before that day, of employment of his to which this Schedule applies, counted as a

period of employment with the Corporation (if, apart from this provision, it would not so count) and his transfer to employment with the Corporation did not break the continuity of the period of employment (if, apart from this provision, the transfer would do so).

2. Where, before the day mentioned in paragraph 1 a person's employment to which this Schedule applies was terminated and a payment made to him in respect of the termination in accordance with the Superannuation (Northern Ireland) Order 1972(a) or the Superannuation Act (Northern Ireland) 1967(b) or any enactment repealed by that Act, or under such arrangements as are mentioned in section 48(3) of the Act of 1965, then, whether or not he was re-employed in employment to which this Schedule applies immediately following that termination, Schedule 1 to the Act of 1965 shall have effect as if the period of his employment before that termination in employment to which this Schedule applies did not count as a period of employment with the Corporation.

3. In the application of paragraph 7 of Schedule 2 to the Act of 1965 (calculation of rates of remuneration) to a person in whose case paragraph 1 applies, references in that paragraph to a former employer and a period of employment with a former employer shall be construed in accordance with the foregoing paragraphs, and the reference in the said paragraph 7 to paragraph 10 of Schedule 1 to that Act shall include a reference to sub-paragraph (b) of paragraph 1.

4. Section 7 of the Act of 1965 (power to vary number of weekly hours of employment necessary to qualify for rights) shall have effect as if the reference therein to paragraph 4 of Schedule 1 to that Act included a reference to the paragraph substituted for that paragraph by paragraph 1 and to paragraph 7.

5. For the purpose of computing, for the purposes of the Act of 1965, a period of employment of a person in whose case paragraph 1 applies, any reference in that Act to Schedule 1 or 2 to that Act shall, in relation to employment to which this Schedule applies of his before the day mentioned in paragraph 1, be construed as a reference to the said Schedule 1 or 2, as the case may be, as it has effect by virtue of paragraphs 1 to 4.

6. Where a person enters the employment of the Corporation on the day mentioned in paragraph 1 and, immediately before that day, was occupied in employment to which this Schedule applies, then, for the purpose of computing a period of employment for the purposes of the said Schedule 1 as applied by Schedule 3 to the Act of 1965, a period in which he was occupied in employment to which this Schedule applies shall, notwithstanding the provisions of section 26(3) of the Act of 1965 (which excludes the application of section 11 of that Act to a person in respect of certain employment), be treated as if it had been a period in respect of which section 11 of that Act had applied.

7. This Schedule applies to employment of a person in the civil service of Northern Ireland where he gives personal service of at least twenty-one hours a week and the remuneration in respect thereof is defrayed entirely out of money appropriated for that purpose.

(a) S.I. 1972/1073 (N.I. 10).

(b) 1967 c. 24 (N.I.).

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order establishes a corporation "Enterprise Ulster" which may do anything considered by it to be of environmental, amenity, cultural or social value for the purpose of creating employment in Northern Ireland. The functions of the corporation with respect to new projects cease on 31st March 1978 unless extended under Article 12.