**1968. No. 23** **[C]**

# LOCAL GOVERNMENT

## Newtownards Borough (Alteration) Order (Northern Ireland) 1968

ORDER*, DATED 10TH JANUARY 1968, MADE BY THE MINISTRY OF DEVELOPMENT IN PURSUANCE OF ARTICLES 25 AND 27 OF THE SCHEDULE TO THE LOCAL GOVERNMENT (APPLICATION OF ENACTMENTS) ORDER 1898.

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Whereas by virtue of article 25 of the Schedule to the Local Government (Application of Enactments) Order 1898 the Ministry of Development (in this Order referred to as "the Ministry") may make a provisional order for altering the boundary of a borough:

And whereas the borough of Newtownards in the administrative county of Down is a borough within the meaning of the Local Government (Ireland) Act 1898(a) and the inhabitants are a body corporate by the name of the mayor, aldermen and burgesses of the borough of Newtownards:

(a) 61 & 62 Vict. c. 37.

*This Order was affirmed by a Resolution of each House of Parliament on the 20th day of February 1968.

And whereas it has been represented to the Ministry by the mayor, aldermen and burgesses of the borough of Newtownards that it is desirable that the boundary of the borough of Newtownards should be altered:

And whereas a local inquiry has been held:

And whereas it appears to the Ministry that it is expedient that the said boundary should be altered:

Now therefore the Ministry in pursuance of the powers conferred upon it by articles 25 and 27 of the Schedule to the Local Government (Application of Enactments) Order 1898, and of all other powers enabling it in that behalf, hereby orders as follows:—

*Title*

**1.** This Order may be cited as the Newtownards Borough (Alteration) Order (Northern Ireland) 1968.

*Interpretation*

**2.** In this Order—

"the appointed day" means the 1st day of April 1968;

"the added area" means the area which by this Order is added to the existing borough of Newtownards;

"the excluded area" means the area which by this Order is excluded from the existing borough of Newtownards;

"existing" means existing immediately before the appointed day;

"the existing borough" means the borough of Newtownards existing immediately before the appointed day;

"the borough" means the borough of Newtownards as altered by this Order;

"the borough council" means the council of the borough of Newtownards;

"the county" means the administrative county of Down and "the county council" means the council of the administrative county of Down;

"the existing rural district" means the rural district of North Down existing immediately before the appointed day;

"the rural district" means the rural district of North Down as altered by this Order;

"the rural council" means the council of the rural district of North Down; and

"the maps" means the duplicate maps marked "Map of the Borough of Newtownards as altered by the Newtownards Borough (Alteration) Order (Northern Ireland) 1968" and sealed with the official seal of the Ministry.

*Commencement*

**3.** Save as otherwise expressly provided this Order shall come into operation on the appointed day:

Provided that for the purposes of—

(*a*) the alteration of valuation lists to take effect on the appointed day or the preparation or service of any precept to be made in respect of the financial year commencing on the appointed day; and

(*b*) the preparation or approval of any general rate or special rate to be made in respect of a period commencing on the appointed day;

this Order shall operate from the affirmation of this Order by Resolution of each House of Parliament.

*Alteration of Borough*

**4.**—(1) The boundary of the existing borough, the area of which is coloured grey and purple on the maps and bounded by the outer edge of a blue colour band shall be altered so as to exclude that area which is coloured purple and to include in addition to the area coloured grey, the portions of the existing rural district which are coloured pink, brown, yellow and green on the maps.

(2) The boundary of the borough shall be that shown by the inner edge of the red colour band on the maps and the whole of the area within that boundary shall for all purposes be the borough.

(3) That part of the added area coloured pink shall be included within the Scrabo ward of the borough and the district electoral division of Scrabo and shall cease to form part of the district electoral division of Newtownards South.

(4) That part of the added area coloured brown shall be included within the Glen ward of the borough and the district electoral division of Glen and shall cease to form part of the district electoral divisions of Newtownards South and Newtownards North.

(5) That part of the added area coloured yellow shall be included within the Victoria ward of the borough and the district electoral division of Victoria and shall cease to form part of the district electoral division of Newtownards North.

(6) That part of the added area coloured green shall be included within the Castle ward of the borough and the district electoral division of Castle and shall cease to form part of the district electoral divisions of Newtownards North and Newtownards South.

(7) The excluded area which is coloured purple shall be excluded from the Scrabo ward of the borough and the district electoral division of Scrabo and shall form part of the townland of Scrabo and the district electoral division of Newtownards South.

*County Electoral Divisions*

**5.**—(1) For the purpose of the election of county councillors the added areas shall be separated from the Donaghadee and Comber county electoral divisions and shall be included in the Newtownards county electoral division.

(2) For the purpose of the election of county councillors the excluded area shall be separated from the Newtownards county electoral division and shall be included in the Comber county electoral division.

*Deposit and copies of Maps*

**6.**—(1) One of the maps shall be deposited in the offices of the Ministry and the duplicate map shall be deposited with the town clerk of Newtownards at his office.

(2) Copies of the map deposited with the town clerk of Newtownards, certified by him to be true, shall be sent by him within one month after the affirmation of this Order to the secretary of the county council, the clerk of the rural council, the Ministry of Finance, the Ministry of Home Affairs, the Ministry of Commerce, the Commissioner of Valuation, the Chief Survey Officer of Ordnance Survey, the Registrar General of Births, Deaths and Marriages and the Clerk of the Crown and Peace for the County of Down.

*Copies of Map to be Evidence*

**7.**—(1) Copies of or extracts from the map deposited with the town clerk of Newtownards, certified by him to be true, shall be received in all courts of justice and elsewhere as prima facie evidence of the contents of the map so far as it relates to the boundary of the borough.

(2) The map deposited with the town clerk of Newtownards shall at all reasonable times be open to inspection by any person liable to any rate leviable within the borough and any such person shall be entitled to a copy of or extract from the map certified by the town clerk to be true on payment of a reasonable fee to be determined by the borough council.

(3) All fees so received shall be carried to the general rate fund of the borough.

*Number of Borough Councillors and Aldermen*

**8.** Subject to the provisions of the Local Government Acts (Northern Ireland) 1898 to 1966, the number of councillors of the borough shall continue to be twelve and the number of aldermen of the borough shall continue to be four.

*Existing Mayor, Aldermen and Borough Councillors*

**9.**—(1) The persons who hold office immediately before the appointed day as the mayor, aldermen and councillors of the existing borough shall on the appointed day become the mayor, aldermen and councillors of the borough.

(2) Any alderman or councillor who immediately before the appointed day represents the Victoria, Scrabo, Castle or Glen ward of the existing borough shall as from the appointed day represent that ward as altered by this Order.

(3) If immediately before the appointed day a casual vacancy exists in the representation of the Victoria, Scrabo, Castle or Glen ward of the existing borough the vacancy shall be deemed to exist in the representation of that ward as altered by this Order.

*Existing County Councillors*

**10.** Any person who immediately before the appointed day is a county councillor representing an existing electoral division of the county which is altered by this Order shall be deemed to have been elected to represent that electoral division as so altered.

*Existing Rural District Councillors*

**11.** Any person in office immediately before the appointed day as a rural district councillor for the existing district electoral division of Newtownards South or of Newtownards North shall on the appointed day become a rural district councillor for such district electoral division as altered by this Order.

*Qualification of Members of Local Authorities*

**12.**—(1) For the purposes of the determination after the appointed day of the qualification of a person for election as an alderman of the borough or as a county councillor, borough councillor or district councillor the alteration of the area made by this Order shall be deemed to have had effect as from the 1st day of April 1967.

(2) Any alderman or councillor of the existing borough and any county councillor or district councillor who is to continue in office after the appointed day shall not during his present term of office be deemed to lose his qualification for being an alderman or councillor by reason of any alteration of area made by this Order.

*Term of Office of Members of Local Authorities*

**13.** Any member of a local authority affected by this Order shall retire from office on the day on which he would have retired from office if this Order had not been made and any person elected to fill a casual vacancy in the office of member of a local authority so affected shall retire from office on the day on which the person in whose place he is elected would have retired from office if this Order had not been made.

*Property and Liabilities of Councils*

**14.**—(1) Subject to the provisions of this Order all property immediately before the appointed day vested in the borough council for the benefit of the existing borough (not being property held on any charitable trust) shall by virtue of this Order be held by the borough council for the benefit of the borough and the borough council shall hold, enjoy and exercise for the benefit of the borough all the powers which immediately before that day are exercisable by or vested in them for the benefit of the existing borough and all liabilities which immediately before the appointed day attach to the borough council in respect of the existing borough shall on that day attach to them in respect of the borough.

(2) Subject to the provisions of this Order all property immediately before the appointed day vested in the rural council for the benefit of the existing rural district (not being property held on any charitable trust) shall by virtue of this Order be held by the rural council for the benefit of the rural district and the rural council shall hold, enjoy and exercise for the benefit of the rural district, all the powers which imediately before that day are exercisable by or vested in them for the benefit of the existing rural council and all liabilities which immediately before the appointed day attach to the rural council in respect of the existing rural district shall on that day attach to them in respect of the rural district.

*Mortgage Debts of Borough Council*

**15.**—(1) So much of any sums borrowed by the borough council as immediately before the appointed day is owing and charged upon a fund or rate of the existing borough shall be charged upon the corresponding fund or rate of the borough or the revenues of the borough as the case may require.

(2) All borrowed moneys to which this article applies with the interest thereon shall be repaid by the borough council within the respective periods for which the loans in respect of which the said sums are owing were originally sanctioned or within which the same are otherwise required to be repaid or are made repayable.

*Property and Liabilities relating to Added and Excluded Areas*

**16.**—(1) Any property or liabilities vested in or attaching to the rural council immediately before the appointed day in relation exclusively to the added area shall by virtue of this Order be transferred to and vest in the borough council as the urban authority for the execution of the Public Health Acts (Northern Ireland) 1878 to 1966.

(2) Any property or liabilities vested in or attaching to the rural council immediately before the appointed day in relation to the added area conjointly with any other area shall be a matter for adjustment under this Order.

(3) Any property or liabilities vested in or attaching to the borough council immediately before the appointed day in relation exclusively to the excluded area shall by virtue of this Order be transferred to and vest in the rural council as the rural authority for the execution of the Public Health Acts (Northern Ireland) 1878 to 1966.

(4) Any property or liabilities vested in or attaching to the borough council immediately before the appointed day in relation to the excluded area conjointly with any other area shall be a matter for adjustment under this Order.

*Balances of Rural Council*

**17.** Any balance standing on the appointed day in the books of the county council or in the books of the rural council in respect of the poor rate of the existing rural district or in respect of any special rate levied on the district electoral divisions of Newtownards North and Newtownards South or any contributory place within the said electoral divisions shall be a matter for adjustment under this Order.

*Balances of Borough Council*

**18.** Any balance standing on the appointed day in the books of the borough council in respect of the poor rate of the existing borough or any special rate levied in the Scrabo ward shall be a matter for adjustment under this Order.

*Extension of Local Acts and Orders*

**19.**—(1) Subject to the provisions of this Order the unrepealed provisions of—

(*a*) the local Acts specified in Part I of Schedule 1;

(*b*) the provisional orders confirmed by the respective Acts specified in Part II of Schedule 1 in so far as those orders relate to the existing borough or the borough council;

(*c*) any other local Act or duly confirmed provisional order affecting the existing borough or the borough council; and

(*d*) any order affecting the existing borough or the borough council which has effect as if enacted by Parliament;

as those unrepealed provisions respectively are in force within the existing borough immediately before the appointed day shall extend and apply to the borough, and any reference therein which is applicable to the existing borough shall save as otherwise provided in this Order be deemed to refer to the borough.

(2) Subject to the provisions of this Order the unrepealed provisions of—

(*a*) any local Act or duly confirmed provisional Order affecting the existing rural district or the rural district council; and

(*b*) any order affecting the existing rural district or the rural district council which has effect as if enacted by Parliament;

as those unrepealed provisions respectively are in force within the existing rural district immediately before the appointed day shall extend and apply to

the rural district, and any reference therein which is applicable to the existing rural district shall save as otherwise provided in this Order be deemed to refer to the rural district.

(3) Nothing in this Order shall alter the area for the supply of gas, water or electricity by any company, body or local authority under any local Act or any provisional order confirmed by Parliament or under any order made in pursuance of the Gas Undertaking Acts (Northern Ireland) 1920 to 1939, or the Electricity (Supply) Acts (Northern Ireland) 1882 to 1962, or shall prejudice or affect the existing powers or charges of any such company, body or local authority under any such Act or order.

*Adoptive Acts*

**20.**—(1) The provisions of the adoptive Acts specified in Schedule 2 which are in force within the existing borough shall be in force within and apply to the borough as if they had been adopted for the borough.

(2) The provisions of any Act adopted by the rural council and in force within the added area shall subject to the provisions of this article cease to be in force within or to apply to the added area.

(3) Any order made under the Infectious Disease (Notification) Act 1889(b) or under any adoptive Act specified in Schedule 2 and in force throughout the existing borough immediately before the appointed day shall extend and apply to the added area in substitution for any order so made which may be in force within the added area.

(4) The provisions of any adoptive Acts which are in force within the existing rural district shall be in force within and apply to the rural district as if they had been adopted for the rural district.

(5) The provisions of any Act adopted by the borough council and in force within the excluded area shall subject to the provisions of this article cease to be in force within or to apply to the excluded area.

(6) Any order made under the Infectious Disease (Notification) Act 1889 or under any adoptive Act in force throughout the rural district immediately before the appointed day shall extend and apply to the excluded area in substitution for any order so made which may be in force within the excluded area.

*Orders under Public Health Acts Amendment Act 1907*

**21.** Subject to any order which the Ministry may make on or after the appointed day the following provisions shall have effect as regards orders under the Public Health Acts Amendment Act 1907(c)—

(1) the provisions of any order made before the appointed day declaring any parts or sections of the said Act to be in force throughout the existing borough shall have effect as if any references in that order to the existing borough extended and applied to the borough and as if the said parts or sections were accordingly declared to be in force within the borough;

(2) any other order under the said Act which is in force immediately before the appointed day throughout the existing borough shall extend and apply to the added area;

(3) the provisions of any order made before the appointed day declaring any Parts or sections of the said Act to be in force within the added

(b) 52 & 53 Vict. c. 72.

(c) 7 Edw. 7. c. 53.

area shall cease to apply to the added area and the parts or sections declared by any such order to be in force shall save as in this article provided cease to be in force within the added area;

(4) the provisions of any orders made before the appointed day declaring any parts or sections of the said Act to be in force throughout the existing rural district shall have effect as if any references in that order to the existing rural district extended and applied to the rural district and as if the said parts and sections were accordingly declared to be in force within the rural district;

(5) any other order under the said Act which is in force immediately before the appointed day throughout the existing rural district shall extend and apply to the excluded area; and

(6) the provisions of any order made before the appointed day declaring any parts or sections of the said Act to be in force within the excluded area shall cease to apply to the excluded area and the Parts or sections declared by any such order to be in force shall save as in this article provided cease to be in force within the excluded area.

*Orders under Shops Act (Northern Ireland) 1946*

**22.**—(1) Any order made under the Shops Act (Northern Ireland) 1946(**d**) and in force immediately before the appointed day within the existing borough shall be in force within and apply to the added area in substitution for any order under the said Acts which may be in force within the added area.

(2) Any order made under the Shops Act (Northern Ireland) 1946 and in force immediately before the appointed day within the existing rural district shall be in force within and apply to the excluded area in substitution for any order under the said Act which may be in force within the excluded area.

*Byelaws of Borough and District Councils*

**23.**—(1) Subject to the provisions of this article, all byelaws made by the borough council which immediately before the appointed day are in force within the existing borough shall extend and apply to the borough until the byelaws are repealed or altered by further byelaws and, as respects the added area, the said byelaws shall have effect in substitution for any byelaws which may be in force within the added area.

(2) Any scale of charges made by the borough council and in force immediately before the appointed day throughout the existing borough shall extend and apply to the borough until the scale is repealed or altered by a further scale of charges made by the borough council.

(3) Any proceedings which if this Order had not been made might have been taken for any offence committed within the added area before the appointed day against any byelaws of the rural council may be taken by the borough council as if the borough council had been substituted in the byelaws for the rural council and as if those byelaws had remained in force in the added area.

(4) All byelaws made by the rural council which immediately before the appointed day are in force within the existing rural district shall extend and apply to the rural district, the said byelaws shall have effect in substitution for any byelaws which may be in force within the excluded area.

(5) Any scale of charges made by the rural council and in force immediately before the appointed day throughout the existing rural district shall

(**d**) 1946, c. 7.

extend and apply to the rural district until repealed or altered by a further scale of charges made by the rural council.

(6) Any proceedings which if this Order had not been made might have been taken for any offence committed within the excluded area before the appointed day against any byelaws of the borough council may be taken by the rural council as if the rural council had been substituted in the byelaws for the borough council and as if those byelaws had remained in force in the excluded area.

(7) In this article the expression "byelaws" includes any regulation and the expression "scale of charges" includes any list of tolls or tables of fees or payments not prescribed by byelaws.

*Byelaws of County Council*

**24.**—(1) Subject to the provisions of this article, all byelaws made by the county council and in force immediately before the appointed day within the added area shall in so far as byelaws to the like effect could be made by the borough council cease to be in force within the added area.

(2) Subject to the provisions of this article, all byelaws made by the county council and in force immediately before the appointed day shall apply to the excluded area.

(3) Any proceedings which if this Order had not been made might have been taken for any offence committed within the added area before the appointed day against any byelaws of the county council which by virtue of paragraph (1) of this article cease to apply to the added area may be taken by the borough council as if the borough council had been substituted in the byelaws for the county council and as if those byelaws had remained in force in the added area.

(4) Any proceedings which if this Order had not been made might have been taken for any offence committed within the excluded area before the appointed day against any byelaws of the borough council which by virtue of paragraph (2) of this article cease to apply to the excluded area may be taken by the county council as if the county council had been substituted in the byelaws for the borough council and as if those byelaws had remained in force in the excluded area.

*Arrears of Rates*

**25.**—(1) All rates not collected immediately before the appointed day in respect of hereditaments within the added area shall be collected and recovered by the county council as the rating authority or by the proper officer of that council as if this Order had not been made.

(2) All rates not collected immediately before the appointed day in respect of hereditaments within the excluded area shall be collected and recovered by the borough council as the rating authority or by the proper officer of that council as if this Order had not been made.

*Compensation of Officers*

**26.** Any officer of the county council or rural council or borough council who by reason of this Order or anything done in pursuance or in consequence thereof suffers any direct pecuniary loss by diminution or loss of fees or salary shall be entitled to have compensation paid to him for that pecuniary loss by the borough council and in determining the compensation regard shall be had to the conditions and other circumstances required by sub-section (1)

of section 120 of the Local Government Act 1888(e), as applied by Part II of Schedule 7 to the Local Government (Ireland) Act 1898, to be considered in cases of compensation under that section and the compensation shall not exceed the limit therein mentioned and the provisions of sub-sections (2) to (7) of that section shall apply accordingly with the substitution of references to this Order for references to that Act and with such other modifications as are necessary.

*Financial Adjustments*

**27.** For the purposes of any adjustments which may be required in consequence of this Order or of anything done under this Order article 30 of the Schedule to the Local Government (Application of Enactments) Order 1898 shall apply with the modification that where and so far as an adjustment is not or cannot be made under that article by agreement between the authorities interested the Ministry may on the application of any such authority make such adjustment as shall appear to the Ministry to be requisite and proper and such adjustment made by the Ministry shall have full force and effect notwithstanding any provisions to the contrary contained in section 71 of the Local Government (Ireland) Act 1898 or any enactment amending that section or in any previous adjustment order.

*Saving for contracts, legal proceedings, etc.*

**28.**—(1) No alteration effected by this Order shall cause to abate or shall prejudicially affect or prevent the continuance of any action, cause of action or proceeding which immediately before the appointed day is pending or existing by or against any local authority or save as in this Order otherwise expressly provided any contract, deed, bond, agreement or other instrument (subsisting immediately before the appointed day) entered into or made by any local authority:

Provided that—

(a) any cause of action or proceeding by or against the rural council in relation exclusively to the added area or any part thereof may be prosecuted and enforced by or against the borough council;

(b) any cause of action or proceedings by or against the borough council in relation to the excluded area or any part thereof may be prosecuted and enforced by or against the rural council;

(c) all contracts, deeds, bonds, agreements and other instruments (subsisting immediately before the appointed day) entered into or made by the rural council in relation exclusively to the added area or any part thereof may except as in this Order otherwise expressly provided be continued and enforced as fully and effectually as if instead of the rural council the borough council had been a party thereto; and

(d) all contracts, deeds, bonds, agreements and other instruments (subsisting immediately before the appointed day) entered into or made by the borough council in relation exclusively to the excluded area or any part thereof may except as in this Order otherwise expressly provided be continued and enforced as fully and effectually as if instead of the borough council the rural council had been a party thereto.

(2) All legal proceedings pending immediately before the appointed day may be amended in such manner as may be necessary to bring them into conformity with the provisions of this Order.

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(e) 51 & 52 Vict. c. 41.

*Costs*

**29.** The costs and expenses of the borough council and the Ministry incurred in respect of the application for, preparation, making and affirmation of this Order shall be paid by the Borough Council out of the borough fund or rate.

Sealed with the Official Seal of the Ministry of Development for Northern Ireland this 10th day of January 1968.

(L.S.)

*W. K. Fitzsimmons,*
Minister of Development.

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SCHEDULE 1

**Local Acts and Confirmation Acts extended to the Borough**

PART I—LOCAL ACTS

| | |
|---|---|
| 6 Edw. 7., c. lxxviii | The Newtownards Urban District Council Act 1906. |
| 10 & 11 Geo. 5., c. lii | The Newtownards Urban District Council Act 1920. |

PART II—CONFIRMATION ACTS

| | |
|---|---|
| 39 & 40 Vict., c. clv | The Local Government Board (Ireland) Provisional Orders (Dalkey, etc.) Confirmation Act 1876, which confirmed a provisional order dated the 31st day of March 1876, relating to the constitution of the Newtownards United Burial Grounds District. |
| 46 & 47 Vict., c. lxxxiii | The Local Government Board (Ireland) Provisional Orders Confirmation (Carlow, Listowel and Newtownards) Act 1883, which confirmed the Newtownards Gas Order 1883. |
| 3 Edw. 7., c. cxli | The Local Government Board (Ireland) Provisional Orders Confirmation (No. 7) Act 1903, which confirmed the Counties of Down and Armagh (Financial Relations) Order 1903. |
| 1950 c. ii | The Ministry of Health and Local Government Provisional Order Confirmation (Newtownards Borough Extension) Act (Northern Ireland) 1950. |

SCHEDULE 2

**Adoptive Acts in force within the existing Borough**

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|---|---|
| 17 & 18 Vict., c. 103 | Towns Improvement (Ireland) Act 1854. |
| | Public Libraries Acts (Northern Ireland) 1855 to 1924. |
| 53 & 54 Vict., c. 59 | Public Health Acts Amendment Act 1890, Part III. |
| 7 Edw. 7., c. 53 | Public Health Acts Amendment Act 1907, Parts 2, 3, 4, 5, 6, 7, 9. |
| 53 & 54 Vict., c. 34 | Infectious Disease (Prevention) Act 1890. |
| 52 & 53 Vict., c. 72 | Infectious Disease (Notification) Act 1889. |
| | Small Dwellings Acquisition Acts (Northern Ireland) 1899 to 1948. |
| 24 & 25 Geo. 5, c. 22 | Local Government Act (Northern Ireland) 1934 Section 17. |

## EXPLANATORY NOTE

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

This Order provides for the alteration of the boundary of the Borough of Newtownards and for certain consequential adjustments between the Borough Council, North Down Rural District Council and Down County Council.