



New Towns Act 1981

1981 CHAPTER 64

PART III

TRANSFER OF PROPERTY TO DISTRICT COUNCILS

Transfer and management of housing under this Part

42 Transfer of housing and associated property to district councils

- (1) A scheme may be made in accordance with and subject to this Part of this Act providing for the transfer from a new town corporation of their interest in any dwellings of a new town and any of their associated property, rights, liabilities and obligations to the council of the district in which the dwellings are situated or any adjoining district.
- (2) In this Part, except where the context otherwise requires—
 - " transfer scheme " means a scheme under this section,
 - " transferred dwellings " and " transferred land " mean respectively dwellings and land an interest in which is transferred or proposed to be transferred by any transfer scheme,
 - " transferred ", in relation to other property or any rights, liabilities or obligations, means transferred or proposed to be transferred by any transfer scheme,and cognate expressions shall be construed accordingly.
- (3) The following property, rights, liabilities and obligations of a new town corporation shall be treated for the purposes of this Part as associated with any transferred dwellings in which they have or had an interest—
 - (a) any interest of the corporation in any land occupied or set aside for occupation or use with a transferred dwelling;
 - (b) any interest of the corporation in land in the vicinity of transferred dwellings which is held by them for the benefit or use of the occupiers or other inhabitants of those dwellings (rather than the inhabitants of the new town as

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- a whole) or for providing facilities for the inhabitants of those dwellings, and any other property and any rights of the corporation so held;
- (c) any property and rights held by the corporation for the administration of an estate comprising any transferred dwellings or other transferred land or the maintenance or service of any transferred dwellings or other transferred land, or otherwise in connection with any transferred property;
 - (d) any rights, liabilities and obligations which the corporation have in connection with any transferred dwellings or other transferred property or rights or in connection with any dwellings of the new town in which the corporation have disposed of their interest;
 - (e) any interest of the corporation in land awaiting development as part of an estate comprising any transferred dwellings or other transferred land and set aside by the corporation for the erection of dwellings or for the erection of any other buildings for any purpose mentioned in paragraph (b) or (c) above ;
 - (f) any interest of the corporation in land set aside by them as an open space for the use or enjoyment of the occupiers or other inhabitants of any transferred dwellings;
 - (g) any property, rights, liabilities or obligations of the corporation prescribed by the Secretary of State by order as being of a description which it is appropriate in his opinion to transfer with any property, rights, liabilities or obligations mentioned in any of the foregoing paragraphs.

43 Consultation with a view to transfer schemes

- (1) Where one of the conditions mentioned in subsection (2) below is satisfied with respect to a new town, the Secretary of State may give directions—
 - (a) to the new town corporation for the town, and
 - (b) to the council of any district within which any part of the area of the new town is situated,
 requiring them to enter into consultations—
 - (i) with him,
 - (ii) with each other, and
 - (iii) with the council of any other district within which any part of the area of the new town or any dwellings of the new town or any associated property is or are situated,
 with a view to a transfer scheme being made in respect of the new town by the new town corporation and the council to whom the directions are given.
- (2) Those conditions are—
 - (a) an order has been made before 15th November 1976 with respect to the new town under section 41 of the New Towns Act 1965, transferring the property of its development corporation to the Commission;
 - (b) the site of the new town was first designated not less than 15 years before the date of the directions under this section;
 - (c) the Secretary of State has, after consulting the new town corporation for the town concerned, formed the opinion that the development of the new town has been substantially completed or that the carrying out of a transfer scheme would not be detrimental to the laying out of the new town or the completion of its development.
- (3) Where—

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- (a) the site of a new town was first designated not less than 15 years before a request under this subsection, but
 - (b) no directions have been given with respect to the new town under this section, the new town corporation or the council of any district within which any part of the area of the town is situated may request the other and the Secretary of State to enter into consultations with a view to a transfer scheme being made in respect of the new town by the corporation and the council.
- (4) The corporation and the council and the Secretary of State shall then enter into such consultations—
- (a) with each other, and
 - (b) with the council of any other district within which any part of the area of the new town or any dwellings of the new town or any associated property is or are situated.

44 Preparation and contents of transfer schemes

- (1) If after any consultations under section 43 above with respect to a new town it appears to the Secretary of State that it is expedient for the new town corporation and a district council to whom directions have been given or by or to whom a request has been made under that section to make a transfer scheme, he may, subject to the following provisions of this Part of this Act, give directions as provided in subsection (2) below.
- (2) The Secretary of State may accordingly direct the corporation and the council to make and submit to him within a specified time—
- (a) a transfer scheme, or
 - (b) where one has already been made, a further transfer scheme with respect to the new town, providing for the transfer to the council—
 - (i) of the corporation's interest in all or any of the dwellings of the new town ; and
 - (ii) of any of the corporation's associated property, rights, liabilities and obligations.
- (3) In determining what land should or should not be transferred by a transfer scheme the Secretary of State and the parties making the scheme shall have regard to the need for facilitating proper estate management, after the vesting of the transferred land, both of that land and of any other land in its vicinity.
- (4) Directions under this section shall, unless they state that in the Secretary of State's opinion it is not appropriate for the corporation and the council concerned to enter into management arrangements with respect to any land in the new town, require the corporation and council to include in the scheme management arrangements, that is, arrangements for the management by the council—
- (a) subject to subsection (5) below, of all those dwellings within their district or any adjoining district which are not transferred, but in which the corporation have an interest for the time being, and
 - (b) if the parties think fit, of any other land not transferred in which the corporation have an interest for the time being and which in the interests of proper estate management it is expedient should be managed together with those dwellings.

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- (5) The parties may exclude any dwelling from management arrangements if in their opinion it is unlikely that the dwelling will be transferred by a subsequent transfer scheme or there are other special reasons for its exclusion.
- (6) Directions under this section may—
- (a) specify any dwellings of a new town, or a number or description of such dwellings, which in the Secretary of State's opinion should be excluded from transfer on the ground that the new town corporation's interest in them should be disposed of to some person other than the district council;
 - (b) in the case of directions which do not require the transfer of a new town corporation's interest in all the dwellings of the new town to a district council, specify the dwellings or description of dwellings which must be transferred; and
 - (c) require the inclusion in the transfer scheme of any description of provisions which are authorised to be so included by any enactment contained in this Part other than this subsection.
- (7) A transfer scheme shall—
- (a) specify the dwellings and other property transferred, any transferred rights, liabilities and obligations and any land which is the subject of any management arrangements, describing them sufficiently to enable them to be readily identified and, in the case of land and of any rights in, under or over land which it is reasonably practicable to indicate on or by reference to a map, indicating the land itself and the rights on or by reference to a map;
 - (b) confer on the new town corporation a right to nominate tenants of dwellings of the district council (whether transferred or not and including any which are the subject of management arrangements) and specify the number or proportion of dwellings in respect of which the right is so conferred and, where it is so conferred on the Commission, the period for which it is to be exercisable ;
 - (c) state the method for determining the payments falling to be made by the district council under section 50(2) below; and
 - (d) contain relevant information about the effect of the scheme on the existing staff of the parties concerned and state proposals for staffing arrangements immediately after the transfer scheme comes into force and the protection of existing staff.
- (8) A transfer scheme may include such incidental, consequential, transitional or supplemental provisions as may appear to the parties making the scheme to be necessary or proper.

45 County councils to be informed of proposed transfer schemes

A new town corporation and any district council to whom directions have been given under section 44 above to make a transfer scheme shall, before submitting it to the Secretary of State under section 46 below—

- (a) inform the council of each county in which there is any land proposed to be transferred by, or to be the subject of management arrangements included in, the scheme, or there is any part of the area of the new town, what that land is ; and
- (b) give each such county council a reasonable opportunity of commenting on the proposed scheme.

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46 Procedure for making transfer schemes

- (1) A new town corporation and any district council to whom directions have been given under section 44 above to make a transfer scheme shall, subject to subsection (2) below, endeavour within the time specified in the directions to agree with each other on the provisions to be included in the proposed scheme and to prepare it and submit it to the Secretary of State.
- (2) The Secretary of State may on the application of the new town corporation or any district council to whom directions have been so given extend the time so specified.
- (3) Where a proposed transfer scheme is submitted to the Secretary of State by a new town corporation and a district council in pursuance of directions under section 44, then—
 - (a) if it appears to the Secretary of State that the scheme substantially complies with the directions, he may, with the Treasury's consent but subject to subsection (7) below, approve the scheme, with or without modifications ; or
 - (b) he may in any event reject it.
- (4) Where on consideration of any such scheme so submitted the Secretary of State approves the scheme without modifications or rejects it, he shall notify the corporation and council concerned of his decision.
- (5) Where on consideration of any such scheme so submitted the Secretary of State proposes to approve it with modifications, he shall notify the corporation and council concerned of the modifications which he proposes to make and shall give them an opportunity to comment on the proposed modifications and send them a copy of the scheme as finally approved.
- (6) Where—
 - (a) any such scheme is not submitted to the Secretary of State within the requisite time (that is, the time specified in the directions under section 44 or that time as extended under this section), or
 - (b) the Secretary of State rejects any such scheme submitted to him,he may himself, with the Treasury's consent, make a transfer scheme which, subject to subsection (8) below, must be of a description which he has directed the corporation and council concerned to make ; but he shall—
 - (i) first send them a draft of the scheme, and give them an opportunity of commenting on the draft, and
 - (ii) also send them a copy of the scheme as finally made.
- (7) If—
 - (a) any management arrangements included in a proposed transfer scheme submitted to the Secretary of State in pursuance of directions under section 44 appear to him to be unsatisfactory, or
 - (b) a proposed transfer scheme so submitted which was required by any such directions to include management arrangements fails to include them,he may, instead of approving the scheme (where he has power to do so) or rejecting it, with the Treasury's consent, refer it back to the corporation and council concerned and give them directions under section 44 to make and submit the scheme to him again within a specified time without any management arrangements.
- (8) If—

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- (a) no proposed transfer scheme is submitted to the Secretary of State within the requisite time, or
- (b) he rejects a proposed transfer scheme so submitted which was required by directions under section 44 to include management arrangements and the ground of the rejection is that the scheme does not include any management arrangements or that any such arrangements so included appear to him to be unsatisfactory,

he may exercise his power of making a transfer scheme under subsection (6) above without including any management arrangements.

47 Effect of transfer schemes

- (1) A transfer scheme shall—
 - (a) by virtue of this provision and without more, vest in the district council concerned the interest of the new town corporation in the transferred land and any of the corporation's rights, liabilities and obligations relating to that land and shall do so on a date specified in the scheme, being 1st April in the year in question; and
 - (b) so far as it relates to any other matter, come into force on that date, except so far as may be otherwise provided by the scheme.
- (2) A transfer scheme approved or made by the Secretary of State shall—
 - (a) so far as it transfers to a district council any land of the new town corporation or any of the corporation's rights, liabilities or obligations relating to land, have effect as an instrument under seal made between the corporation and the council,
 - (b) so far as it relates to any other matter, have effect as an agreement for valuable consideration made by the corporation and council concerned,

and may be enforced accordingly, but, subject to subsection (3) below, may only be varied with the Secretary of State's approval.
- (3) The Secretary of State may, on or at any time after notifying the corporation or council concerned of his approval of a transfer scheme without modifications or, as the case may be, sending them a copy of the scheme as finally approved, give directions with the Treasury's consent that the corporation and council may vary the scheme in a specified manner, or vary any specified provisions or any specified description of provisions of the scheme, without his approval.
- (4) Any power of varying a transfer scheme does not include power—
 - (a) to vary it so as to affect any title to land or any rights, liabilities or obligations relating to land; or
 - (b) to include management arrangements in a scheme approved or made under section 46 above without management arrangements.
- (5) Where any proposed variations of a transfer scheme are submitted to the Secretary of State for his approval under subsection (2) above, he may, with the Treasury's consent, approve them with or without modifications or he may reject them, and shall in any event notify the corporation and council concerned of his decision.
- (6) Where an interest in buildings or other land is vested by a transfer scheme in a district council or buildings are or other land is managed by such a council in pursuance of management arrangements included in such a scheme, the buildings or other land shall

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- be treated as having been provided or, as the case may be, acquired or appropriated under Part V of the Housing Act 1957, but—
- (a) the Secretary of State may direct that any land shall not be so treated if, in his opinion, it is inappropriate to do so; and
 - (b) in relation to land so managed the council shall not have the powers conferred by sections 104 and 105 of that Act (disposal of houses so provided and land so acquired or appropriated).
- (7) Where an interest in land is so vested, any installations on other land which are transferred by the scheme and are of a kind which could have been provided under Part V of the Housing Act 1957 shall, unless the Secretary of State otherwise directs, be treated as having been so provided.
- (8) Without prejudice to subsection (6) above, where land is managed by a district council in pursuance of management arrangements, the council shall have all the powers, rights, liabilities and obligations of the new town corporation relating to the land, except—
- (a) the power to hold the corporation's interest in the land ;
 - (b) any obligation to make repayments of capital or payments of interest in respect of loans ;
 - (c) where the corporation in question are a development corporation, any powers, rights, liabilities and obligations which are certified by the corporation as being appropriate for them to retain in order to enable them to complete their function of laying out and developing the new town.
- (9) Where a person enters into a transaction with a district council relating to a power, right, liability or obligation certified by the corporation concerned under subsection (8) (c) above and with reasonable cause believes that the council have that power, right, liability or obligation, then—
- (a) the council shall be taken to enter into, and to be authorised by the corporation to enter into, the transaction as the corporation's agent; and
 - (b) the corporation shall be entitled to be indemnified by the council for any loss suffered by the corporation as a result of their being taken, by virtue of paragraph (a) above, to be a principal in respect of any transaction.
- (10) As soon as reasonably practicable after being notified that a transfer scheme has been approved or made by the Secretary of State, the corporation and council concerned shall—
- (a) each deposit at their respective offices and at other convenient places in the town and district respectively an extract of the scheme (including the map) which specifies the transferred land, any transferred rights, liabilities or obligations relating to that land and any land which is the subject of management arrangements ; and
 - (b) keep the extract so deposited for at least 6 weeks; and
 - (c) while it is so deposited, permit any interested person to inspect and take copies of the extract, free of charge, at all reasonable hours.

48 Nomination of tenants for transferred and managed dwellings

- (1) A new town corporation's right of nominating tenants under a transfer scheme shall, subject to subsection (2) below, be such right as may be agreed between the parties to the scheme, or (in the case of a scheme made by the Secretary of State under

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section 46(6) above) as may be determined by him, to nominate tenants for a number or proportion of the dwellings provided (or treated by section 47(6) above as provided) by the district council concerned under Part V of the Housing Act 1957.

- (2) Subject to subsection (3) below, the corporation's right of nominating tenants shall be exercisable during the following period or periods—
- (a) where the corporation are a development corporation, a period beginning with the date on which their interest in the transferred dwellings vests in the district council and ending with the date which is the transfer date for the purposes of Schedule 10 to this Act;
 - (b) where the corporation are the Commission and the dwellings in question were transferred from the development corporation to the district council, a period of 5 years beginning with that transfer date;
 - (c) where the corporation are the Commission and the dwellings in question were transferred from them to the district council, the period of 5 years beginning with the date on which the Commission's interest in the transferred dwellings vests in the district council.
- (3) The Commission and the district council concerned may, with the Secretary of State's consent, agree to substitute a less period for the period of 5 years specified in paragraph (b) or, as the case may be, (c) of subsection (2) above.

49 Decision not to require transfer scheme

If after consultations with a new town corporation and a district council under section 43 above the Secretary of State determines not to give any directions under section 44 above with respect to a new town—

- (a) he shall notify the corporation and the council of his determination and the reasons for it;
- (b) he shall keep the development of the new town under review for the purposes of considering whether or not to give directions under section 43 with respect to further consultations under subsection (1) of that section ; and
- (c) the corporation or the council of any district within which any part of the area of the new town is situated may at any time after 3 years from the notification of the original determination make a request under section 43(3) with respect to such consultations as are mentioned in that subsection, and that subsection shall apply accordingly as it applies in a case where no directions have been given under section 43.