
STATUTORY INSTRUMENTS

1973 No. 417

The London Authorities (Transfer of Housing Estates etc.) Order 1973

PART IV

PROVISIONS RELATING TO PROPERTY DESCRIBED IN SCHEDULE 2 OF THE DEPOSITED SCHEDULES

Terms of transfer of housing accommodation

19.—(1) A transferee authority shall make payments to the Greater London Council in accordance with the provisions of Part I of Schedule 2 to this order.

(2) The Greater London Council shall pay to a transferee authority sums calculated in accordance with the provisions of Part II of the said Schedule.

(3) The Greater London Council shall discharge the liabilities described in Part III of the said Schedule.

20.—(1) In respect of those properties described in paragraphs 1(a) of the Parts of Schedule 2 of the deposited Schedules liability for any payments under the terms of a contract (other than in respect of works of repair or minor improvement) incurred before the relevant date and which, but for the transfer of the estate by article 4, would have fallen to be met by the Greater London Council on or after the relevant date, shall be met by the transferee authority.

(2) In respect of those properties described in paragraphs 1(b) of the Parts of Schedule 2 of the deposited Schedules liability for any payments (other than in respect of works of repair or minor improvement) falling to be met by the Greater London Council after the payment of the capital sum or sums referred to in paragraph 2 of Part I of Schedule 2 to this order, shall be met by the transferee authority, and such payments shall include any loss or expense incurred by the Greater London Council which has been occasioned by—

- (a) the bankruptcy of a contractor, the making of a composition or arrangement with the creditors of such contractor, the making of a winding up order in respect of the contractor's business or undertaking, the passing of a resolution for voluntary winding up such business or undertaking or the appointment of a receiver or manager of such business or undertaking; or
- (b) the determination by the transferee authority of the employment of a contractor; or
- (c) the requirement by an architect or other nominated person, whether or not at the request of the transferee authority, of any alternation or modification of the design, quality or quantity of any work of construction.

(3) Notwithstanding the ultimate liability of the Greater London Council or the transferee authority, as the case may be, in consequence of the transfer of properties by article 4, to meet payments to a contractor under the terms of a contract where on or after the relevant date payments fall due, such payments shall be made in the first instance by the Greater London Council.

Functions of appointed architect

21. Where on the date of its transfer by article 4 an estate or part of an estate, the main contractor for which is a private contractor, has not been completed or the defects liability period has not expired, the architect specified in the contract for the construction of such estate or part of an estate is to retain his functions under the contract notwithstanding that the contract is of full force and effect in favour of the transferee authority.

Nomination rights

22.—(1) The Greater London Council may nominate tenants to 100 per centum of the first lettings and of the vacancies occurring in the properties transferred by article 4 until the expiration of fifteen years from the relevant date or such other percentage or such earlier dates, as the case may be, as the Greater London Council may determine from time to time.

(2) Without prejudice to paragraph (1), the Greater London Council shall agree with a transferee authority before 31st March 1974 terms (whether as to payment or otherwise) in respect of the nomination of tenants to the dwellings transferred.

(3) In default of agreement under paragraph (2) between the Greater London Council and a transferee authority, the Secretary of State or an arbitrator appointed by him may determine what terms should be included in the arrangement.

(4) Nothing in this article shall affect any agreement as to nominations subsisting between the Greater London Council and a London borough council at the coming into operation of this order.

Transfer of staff

23.—(1) Any officer of the Greater London Council described in Schedule 3 to this order shall, on the relevant date, be transferred to the employment of the transferee authority.

(2) In Schedule 3, references to employment are references to such employment on the day preceding the relevant date.

24.—(1) Where, immediately before the relevant date, any officer has not taken up the duties of his employment he shall be deemed, in the application of article 23, to be discharging such duties, and to be employed in connection with the area of housing accommodation at which he would be employed if he had taken up such duties.

(2) Where any officer is, immediately before the relevant date, absent from his normal duties for the purpose of undergoing training, article 23 shall apply—

(i) if it was part of the arrangements under which he is so absent that at the completion of such training he should be employed in a place, situation or employment different from the place, situation or employment which he occupied prior to the commencement of the training, as if he was, immediately before the relevant date, occupying such different place, situation or employment;

(ii) otherwise, as if he was, immediately before the relevant date, occupying the place, situation or employment which he occupied immediately prior to the commencement of such training.

(3) Where any officer is, immediately before the relevant date, absent from his normal duties otherwise than for the purpose of undergoing training he shall be deemed, in the application of article 23, to be discharging such duties, and to be discharging them in connection with the area of housing accommodation at which he normally discharges them.

25.—(1) Any question whether an officer is employed in the manner described in article 23 shall be determined by a tribunal established under section 12 of the Industrial Training Act 1964.

References to such tribunal may be made as soon as may be and in any case not later than the day preceding the relevant date.

(2) Where any question that an officer is not, or is, employed in the manner described as aforesaid is outstanding on the relevant date the officer shall not be transferred until the expiration of the second week following that in which the decision of the tribunal is notified.

Officers appointed before the relevant date

26. Where a transferee authority, before the relevant date, with the consent of the Greater London Council, appoint to hold any place, situation or employment before or as from that day any person (hereinafter referred to as “the officer”) who, but for that appointment, would fall within a description of officers in Schedule 3 to this order, the officer in that appointment shall be deemed to have been transferred by article 23.

Saving for certain staff

27. Subject to article 26, nothing in article 23 applies—

- (a) to any person who will, by virtue of any agreement, entered into between him and any authority before the relevant date, enter into the employment of that authority on that date; or
- (b) to any person as regards any employment which is to be terminated on the day preceding the relevant date.

Secondary transfers

28. Any officer transferred by article 23 to a transferee authority may, before the expiration of three months from and including the relevant date, be transferred by the said authority with the agreement of any other such authority and of the officer to the employment of that authority, and this order shall continue to apply to him.

Protection of staff

- (a) **29.** (1) (a) Every officer transferred (or deemed to have been transferred) by article 23 or 24 to the employment of a transferee authority shall, so long as he continues in that employment by virtue of the transfer or appointment and until he is served with a statement in writing of new terms and conditions of employment, enjoy terms and conditions of employment not less favourable than those he enjoyed immediately before the relevant date. The said new terms and conditions shall be such that—
 - (i) so long as the officer is engaged in duties reasonably comparable to those in which he was engaged immediately before the relevant date, the scale of his salary or remuneration, and
 - (ii) the other terms and conditions of his employment,are not less favourable than those he enjoyed immediately before the relevant date, and any question whether duties are reasonable comparable as aforesaid shall be determined by a tribunal established under section 12 of the Industrial Training Act 1964. The statement of new terms and conditions shall contain information that any question shall be so determined and as to the person and address to whom any question should be referred.
- (b) A statement of new terms and conditions of employment shall not be served in respect of any officer in relation to whom a question has been referred under article 25(1) until the decision of the tribunal has been notified.

- (c) If after service of a statement of new terms and conditions of employment upon him a question is referred in respect of an officer under article 25(1), the statement shall cease to have effect, sub-paragraph (a) of this paragraph shall have effect as if the statement had not been served, and to newel statement shall be served until the decision on the question has been notified.

(2) A written statement given in accordance with section 4(1) of the Contracts of Employment Act 1972 shall not be regarded as a statement of new terms and conditions of employment for the purposes of paragraph (1) unless the statement so indicates.

Saving for dispensations

30. Any dispensation from the requirements of any regulation granted to the Greater London Council shall have effect, in relation to any officer transferred (or deemed to have been transferred) by article 23 or 24, as if it had been granted to the authority to whose employment he has been transferred (or is deemed to have been transferred).

Saving for extensions of service

31. Any extension of service under section 7(1) of the Local Government Superannuation Act 1937 effective on the relevant date in relation to an officer transferred (or deemed to have been transferred) by article 23 or 24 shall continue to have effect as if it had been made by the authority to whose employment he has been transferred (or is deemed to have been transferred).

Appointment of assessor

32. On any reference under article 25(1) or 29(1) the tribunal may, if they think fit, appoint a person having special knowledge or experience in relation to the subject matter of the reference to sit with them as assessor.

Superannuation

33.—(1) Where an officer who, immediately before his transfer (or deemed transfer) to an authority by article 23 or 24—

- (a) was subject to an election in consequence of which he did not participate in the benefits of the superannuation fund maintained by the Greater London Council under Part I of the Local Government Superannuation Act 1937; and

- (b) had an expectation of a gratuity payable according to years of service,

that election shall remain in effect and such a gratuity shall, subject to terms and conditions which are not less beneficial, be payable by that authority in respect of his previous service and of any service rendered to that authority.

(2) Section 35 of the Local Government Superannuation Act 1937 shall apply to an expectation under this article as it applies to a right under that Act.

Protection of housing accommodation

34. Where, immediately before the relevant date, an officer of the Greater London Council occupied a dwelling (whether as a tenant or otherwise) provided by that Council in connection with, or as a term of, his employment and he is not transferred (or deemed to have been transferred) but the dwelling is transferred by article 4, nothing in this order shall prejudice that occupation and for the purposes of that occupation the authority in whom the dwelling is vested shall permit the authority by whom the officer is employed to deal with the dwelling as if it was vested in that authority, and

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that authority shall make any necessary payment to the authority in whom the dwelling is vested to take account of the occupation of the dwelling by the officer.