
STATUTORY INSTRUMENTS

1974 No. 396

LOCAL GOVERNMENT, ENGLAND AND WALES

The Local Authorities (Smallholdings) Order 1974

<i>Made</i>	- - - -	<i>11th March 1974</i>
<i>Laid before Parliament</i>		<i>11th March 1974</i>
<i>Coming into Operation</i>		<i>1st April 1974</i>

The Minister of Agriculture, Fisheries and Food and the Secretary of State for Wales, in exercise of the powers conferred upon them, as appropriate Ministers with respect to the matters to which this order relates, by section 254(1) and (2)(c) of the Local Government Act 1972 and of all other powers enabling them in that behalf, hereby make the following order:—

Citation and commencement

1. This order may be cited as the Local Authorities (Smallholdings) Order 1974, and shall come into operation on 1st April 1974.

Territorial extent of exercise of powers

2.—(1) Article 4 is made by the Minister of Agriculture, Fisheries and Food in relation to England and by the Minister of Agriculture, Fisheries and Food and the Secretary of State for Wales, acting jointly, in relation to Wales.

(2) Articles 5, 6 and 7 are made by the Minister of Agriculture, Fisheries and Food and the Secretary of State for Wales, acting jointly.

Interpretation

3.—(1) The Interpretation Act 1889 shall apply for the interpretation of this order as it applies for the interpretation of an Act of Parliament.

(2) In this order—

“the Act” means the Local Government Act 1972;

“the Act of 1970” means the Agriculture Act 1970;

“the Minister” and “the Ministers” have the meanings assigned to those expressions by section 37(1) of the Act of 1970 (interpretation of Part III of that Act) as read with section 62 of that Act (provisions as to Wales);

“new county council” means the council of a county established by the Act;

“transferor authority” means the council of a county or county borough which immediately prior to 1st April 1974 was a smallholdings authority and the whole or part of whose smallholdings estate was transferred under the Act to a new county council;

“transferee authority” means a new county council to whom the whole or any part of the smallholdings estate of a transferor authority was transferred under the Act:

“smallholdings authority” means—

- (a) in relation to any time before 1st April 1974, the council of a county or of a county borough falling within paragraph (c) or (d) of section 38 of the Act of 1970 (Smallholdings authorities) as that enactment had effect before that date; and
- (b) as from 1st April 1974, a new county council;

“smallholdings estate” means the aggregate of the land which is for the time being held by a smallholdings authority for the purposes of smallholdings;

“Wales” means the area consisting of the counties established by section 20 of the Act (new local government areas in Wales) and “England” does not include any area included in any of those counties.

(3) In this order, unless the context otherwise requires, references to any enactment shall be construed as reference to that enactment as amended by or under any other enactment or by this order.

Transitional provisions

4.—(1) Any direction under section 40(4) of the Act of 1970 (reorganisation of smallholdings estates) in force immediately before 1st April 1974 in relation to a transferor authority shall as from that date have effect as a direction exempting the transferee authority to whom land comprising the whole or any part of the smallholdings estate of the transferor authority was transferred from the duty to submit proposals under section 40 of that Act in respect of that land and, in relation to any such transferee authority, section 40(1) and (2) of that Act as applied by section 42(6) of that Act (revocation of exemption direction) shall have effect as if for any reference therein howsoever expressed to a smallholdings authority's smallholdings estate there were substituted a reference to such part of the transferee authority's smallholdings estate as comprises the land transferred under the Act to that authority from the transferor authority to whom the direction was given.

(2) Any proposals submitted to the Minister under section 40 of the Act of 1970 by a transferor authority and approved by him under section 41 of that Act (approval of reorganisation proposals) and in force immediately before 1st April 1974 as originally approved, and any proposals so submitted and approved which before that date have been amended by proposals approved by the Minister under section 43 of that Act (proposals otherwise than in connection with reviews) and were in force immediately before that date as so amended, shall for the purposes of sections 41(6), 42, 43, 44(4) and (5), 50 and 51 of that Act have effect as from 1st April 1974 as proposals of the transferee authority approved by the Minister in relation only to the land formerly held by the transferor authority for the purposes of smallholdings and transferred under the Act to the transferee authority.

(3) As from 1st April 1974, subsections (3) to (8) of section 43 of the Act of 1970 (submission of proposals by exempt smallholdings authorities) shall, in their application to any smallholdings authority, have effect only with respect to the land transferred under the Act to a transferee authority from a transferor authority to whom a direction given by the Minister under section 40(4) of that Act was in force immediately before 1st April 1974.

(4) In relation to, and for the purpose of, the making by a smallholdings authority on or after 1st April 1974 of an application to the Minister under section 51(2) of the Act of 1970 (increase of certain capital grants) in a case where the relevant proposals (as defined in that section) were submitted to the Minister under section 43 of that Act before 1st April 1974 by a transferor authority,

such relevant proposals shall be treated as having been submitted to the Minister by the transferee authority to whom the land to which the relevant proposals relate has been transferred under the Act.

(5) For the purposes of any report to be submitted to the Minister under section 59(1) of the Act of 1970 (annual reports) during the year commencing on 1st April 1974 by a smallholdings authority other than the Greater London Council, the reference in the said section to the proceedings of the authority during the preceding financial year shall be construed as a reference to the proceedings during the financial year ending on 31st March 1974 of the transferor authority or authorities the whole or part of whose respective smallholdings estates have been transferred under the Act to that smallholdings authority but in so far only as such proceedings relate to land so transferred or to land which, if it had not been sold, exchanged or appropriated for other purposes by the transferor authority during the said financial year ending on 31st March 1974, would have been so transferred to that smallholdings authority.

Transitional provisions relating to contributions

5. Until a payment of such contributions as are mentioned in section 52(2)(b) of the the Act of 1970 (regulations empowering the Minister to adjust contributions payable to a smallholdings authority) is made to a new county council to whom the entitlement to such contributions has been transferred under the Act from the council of a county or county borough, in relation to the power conferred on the Ministers by section 52(2)(d) of that Act to make regulations enabling the Minister to require a smallholdings authority to furnish the Minister with any particulars required by him, and in relation to any regulations so made before 1st April 1974, a payment of contributions made before 1st April 1974 to the council of a county or county borough shall be treated for the purposes of section 52(2)(d) and any such regulations as a payment of contributions to the new county council which on 1st April 1974 became entitled under the Act to the contributions previously payable to the council of the county or county borough.

Miscellaneous provisions as to the Agriculture Act 1970

6. In the Act of 1970—

(1) in section 52(2), in paragraph (a), for the words “which immediately before the commencement of this Part of this Act is held by the authority for the purposes of smallholdings” there shall be substituted the words “which, in relation to the Greater London Council, immediately before the commencement of this Part of this Act was held by that Council for the purposes of smallholdings and, in relation to any other smallholdings authority, is held by them for those purposes, being land which immediately before the commencement of this Part of this Act was held by the council of a county or county borough (as then constituted and in existence) for those purposes and under the Local Government Act 1972 was transferred to such smallholdings authority.”;

(2) in section 60(2), (3) and (4) (provisions as to cottage holdings) any reference to section 52(2) of the Act of 1970 shall be construed as a reference to that enactment as amended or modified by or under any other enactment including this order;

(3) in section 60(2), for the words “which immediately before the commencement of this Part of this Act is held by any such council for the purposes of cottage holdings” there shall be substituted the words “which, in relation to the Greater London Council, immediately before the commencement of this Part of this Act was held by that Council for the purpose of cottage holdings and, in relation to a county council, is land held by them for those purposes, being land which immediately before the commencement of this Part of this Act was held by the council of a county or county borough (as then constituted and in existence) for those purposes and under the Local Government Act 1972 was transferred to that county council”.

Miscellaneous provisions as to instruments

7. In the Smallholdings (Contributions Towards Losses) Regulations 1970(1), in Regulation 2(2)

- (a) after the definition of “the Act of 1947” there shall be inserted the following definition—

““the Act of 1972” means the Local Government Act 1972”;

- (b) in the definition of “contribution”, for the words “their losses” there shall be substituted the words “the losses incurred by them or by the council of the county or county borough (as constituted and in existence immediately before 1st April 1974) from whom the right to such contribution was on that date transferred to the relevant authority”;

- (c) for the definition of “cottage holdings authority” there shall be substituted the following:—

““cottage holdings authority” means the Greater London Council or a county council who hold land for the purposes of cottage holdings”;

- (d) for the definition of “cottage holdings land” there shall be substituted the following:—

““cottage holdings land” means land held by a cottage holdings authority for the purposes of cottage holdings being land which immediately before the commencement of Part III of the Act was land held for those purposes by the Greater London Council or by the council of a county or county borough (as then constituted and in existence)”;

- (e) for the definition of “smallholdings land” there shall be substituted the following:—

““smallholdings land” means, in relation to the Greater London Council, land held by that Council for the purposes of smallholdings being land which immediately before the commencement of Part III of the Act was held by that Council for those purposes and, in relation to the council of a county established by the Act of 1972, land held by that county council for those purposes being land which immediately before the commencement of Part III of the Act was held by the council of a county or county borough (as then constituted and in existence) for those purposes and transferred to that county council under the Act of 1972.”

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 8th March 1974

L.S.

Fred Peart
Minister of Agriculture, Fisheries and Food

(1) (1970 II, p. 3265).

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Given under my hand on 11th March 1974.

John Morris
Secretary of State for Wales

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EXPLANATORY NOTE

This Order makes miscellaneous incidental, consequential and transitional provisions relating to smallholdings and cottage holdings in consequence of the provisions of the Local Government Act 1972. These provisions include amendments of Part III of the Agriculture Act 1970 and the Smallholdings (Contributions Towards Losses) Regulations 1970.