

## 1974 No. 404

## LOCAL GOVERNMENT, ENGLAND AND WALES

**The Local Authorities etc. (Wales)  
(Property etc.: Further Provision) Order 1974**

<i>Made</i> - - - - -	12th March 1974
<i>Laid before Parliament</i>	12th March 1974
<i>Coming into Operation</i>	14th March 1974

The Secretary of State for Wales, in exercise of the powers conferred upon him by section 254(1)(a) and (2) (a), (b), (c) and (d) of the Local Government Act 1972(a), by those provisions as extended by section 34(1) of, and paragraph 5(2)(b) and (e) of Schedule 6 to, the Water Act 1973(b) and by section 266(2) of the said Act of 1972 and of all other powers enabling him in that behalf, hereby makes the following order:—

*Citation and commencement*

1.—(1) This order may be cited as the Local Authorities etc. (Wales) (Property etc.: Further Provision) Order 1974.

(2) The principal order and this order may be cited together as the Local Authorities etc. (Wales) (Property etc.) Orders 1973 and 1974.

(3) This order shall come into operation on 14th March 1974.

*Interpretation*

2.—(1) The Interpretation Act 1889(c) 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 principal order” means the Local Authorities (Wales) (Property etc.) Order 1973(d);

“water authority” means an authority established in accordance with section 2 of the Water Act 1973; and any reference to the area of a water authority, without more, means the area of that authority as defined in section 2(2)(b) of, or Schedule 1 to, that Act.

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(a) 1972 c. 70.  
(c) 1889 c. 63.

(b) 1973 c. 37.  
(d) S.I. 1973/1863. (1973 III, p. 6452).

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

(4) Any reference in this order to a numbered article shall unless the reference is to an article of a specified order, be construed as a reference to the article bearing that number in this order.

(5) Any reference in any article of this order to a numbered paragraph shall, unless the reference is to a paragraph of a specified article, be construed as a reference to the paragraph bearing that number in the first-mentioned article.

*Other express provision*

3. This order shall have effect subject to the express provision of—

- (a) any other order (other than the principal order) made (whether before or after this order) under section 254 of the Act;
- (b) any regulations made under section 7 or 8 of the Superannuation Act 1972(a); or
- (c) section 16, 25 or 54(2) of the National Health Service Reorganisation Act 1973(b) or any order made under those sections.

*Amendments to the principal order*

4.—(1) The amendments set out in paragraphs (2) to (16) shall be made in the principal order.

(2) Article 3 (exclusion of certain matters) shall be omitted.

(3) In article 8 (sewers and sewage disposal works) there shall be added—  
“(5) This article applies to the sewage disposal works of a new town development corporation and to the main sewers constructed by such a corporation under the Public Health Act 1936(c) and accounted for in the corporation’s main sewerage and sewage disposal revenue account.”.

(4) In article 10—

(a) there shall be inserted—

“(5A) Where in relation to any such land as is described in paragraph (5)—

(a) deposit has not been completed; but

(b) it has, before 9th November 1973, been resolved that the land shall on the completion of deposit be used (otherwise than temporarily) for the purposes of a particular function,

the land shall be deemed to be held for those purposes and shall be held by the authority to whom it is transferred for those purposes, but the district council shall be entitled to the use of the land for the purposes of the deposit of refuse until such deposit is completed.

Any question whether it has been resolved as described in (b), or

(a) 1972 c. 11.  
(c) 1936 c. 49.

(b) 1973 c. 32.

whether any use is temporary, shall, subject to the provision of paragraph (6), be determined by the transferor authority.

The use of any land by virtue of this paragraph shall be on such terms as may be determined by agreement between the authorities concerned, or failing such agreement by the decision of a person agreed on by such authorities or in default of agreement appointed by the Secretary of State.

(5B) Where in relation to any such land as is described in paragraph (5) deposit has been completed but there has been no such resolution as is described in (b) of that paragraph, the land shall not be transferred by article 9.”; and

(b) in paragraph (6) for “(4) or (5)” there shall be substituted “(4), (5) or (5A)”.

(5) In article 13 (balances on accounts of undertakings), in paragraph (2), the words “(or the undertaking other than any land, buildings or works in England)” shall be omitted.

(6) In article 14—

(a) in paragraph (1), for “This article” there shall be substituted “Paragraph (2)”;

(b) in paragraph (2), for “article” there shall be substituted “paragraph”;

(c) there shall be added—

“(3) The balance on the combined police fund of the Dyfed-Powys police authority shall be apportioned between the new Dyfed-Powys and South Wales combined police areas and the county of Gwent, being the new areas and the new county in which parts of the area of the authority are comprised, in the proportions which the aggregate rateable values of all the hereditaments in each such part as shown in the valuation lists immediately before 1st April 1974, bear to the aggregate rateable values of all the hereditaments in all such parts, and the amounts so apportioned shall be payable to the new combined police authorities and the County Council of Gwent.”.

(7) After article 16 there shall be inserted—

*“Property of new town development corporations*

16A. Any transfer of the property of a new town development corporation made by the preceding articles of this order shall be on the basis of the payment therefor of the total capital cost thereof reduced by the provision as to depreciation already made.”.

(8) In article 17 (general saving for agreements), in paragraph (4), for “14 and 15” there shall be substituted “14, 15 and 16A”.

(9) In article 23 (user rights)—

(a) in paragraph (1) there shall be added—

“In the preceding sub-paragraph the reference to the authority exercising those functions extends to an authority established by the National Health Service Reorganisation Act 1973 exercising such functions.”;

(b) in paragraph (4) there shall be added—

“In the preceding sub-paragraph the reference to any other authority exercising any of the functions described in (a) extends to an authority established by the National Health Service Reorganisation Act 1973 exercising the functions so described.”;

(c) there shall be inserted—

“(4A) Any community council established under section 27(3) or (4) of the Act in the area of any borough or urban district shall be entitled, for the proper discharge of their functions, to the use of accommodation in property which immediately before 1st April 1974 is held by the council of the borough or urban district under section 125 of the Local Government Act 1933(a)”; and

(d) there shall be added—

“(8) An authority shall not sell, exchange, lease or otherwise dispose of property in respect of which user rights are ensured by this article, or develop the land on which such property is situated, unless they have consulted all authorities entitled to such user rights and made such arrangements as may be determined by agreement between the authorities concerned or failing such agreement by the decision of a person agreed on by such authorities or in default of agreement appointed by the Secretary of State.”.

(10) In article 28(1) (byelaws) there shall be added—

“If such authority has no power, apart from this sub-paragraph, to amend or revoke byelaws, any byelaws to which the preceding sub-paragraph applies may be amended by a byelaw made under this sub-paragraph. Section 236(3) to (10) of the Act shall apply to any such byelaw and the Secretary of State or any appropriate Minister shall be the confirming authority in relation thereto. In this sub-paragraph ‘the appropriate Minister’, in relation to any byelaw, means the Minister in charge of any Government department concerned with the subject matter of the byelaw; but the validity of the confirmation of any byelaw shall not be affected by any question as to whether or not any Minister so confirming was the appropriate Minister for the purpose.”.

(11) In article 38(2) (general provision as to disputes) for “(4) or (5)” there shall be substituted “(4), (5) or (5A)”.

(12) In Schedule 1 (transfer of particular properties)—

(a) for the third item there shall be substituted—

“The council of the rural district of Ceiriog	The water undertaking of the council	The Severn-Trent Water Authority”;
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(b) In the fourth item, in column (2) the words “, other than any land, buildings or works in England” shall be omitted.

(13) Schedule 1 shall be extended by the inclusion of Part I of the Schedule “Extension of Schedule 1 of the Local Authorities (Wales) (Property etc.) Order 1973” signed by an Assistant Secretary in the Welsh Office. The provision contained in Part II of the Schedule shall have effect in relation to particular matters included in Part I. The Schedule is deposited in the offices of the Secretary of State for Wales in Cardiff. Copies of the Schedule have been deposited with the councils of counties and districts in Wales, with the Welsh National Water Development Authority and with the Severn-Trent Water Authority and shall be open to inspection at all reasonable times.

(14) In Schedule 2 (transfer of specified classes of property etc.)—

(a) in paragraph 1(c)—

after “port health matters” in the first line there shall be inserted  
“, excise and licensing matters”;

after “property held” there shall be inserted “(or in the case of a new  
town development corporation provided)”; and

after “port health authority;” there shall be inserted—

“(ii) in the case of excise and licensing matters, functions of the  
Secretary of State for the Environment under the Vehicles (Excise)  
Act 1971(a) and Part III of the Road Traffic Act 1972(b) exer-  
cised on his behalf under section 2 of the Vehicle and Driving  
Licences Act 1969(c);”;

(b) in the Table there shall be inserted—

“5a	The county council of Monmouthshire	Police matters being local matters in relation to any part of the Gwent combined police area included in the new South Wales combined police area	The South Wales Police Authority
		Police matters being local matters in relation to any part of the Gwent combined police area included in Gwent	The County Council of Gwent
5b	The county council of Brecon	Excise and licensing matters	The District Council of Brecknock
5c	The county council of Montgomeryshire	Excise and licensing matters	The District Council of Montgomery
5d	The county council of Radnorshire	Excise and licensing matters	The District Council of Radnor”
“6a	The council of any county not included in items 5b, 5c or 5d or the council of any county borough	Excise and licensing matters	The council specified in respect of such council in column (2) of Part I or II of Schedule 4”
“14a	Any new town development corporation	Sewerage and sewage disposal matters	The water authority within whose area for sewerage and sewage disposal purposes the area of the new town is comprised
“16	The Dyfed-Powys police authority	Local matters in relation to any area of the authority included in the new Dyfed-Powys or South Wales combined police area	The combined police authority for the new combined police area
		Local matters in relation to any area of the authority included in Gwent	The county council or the police committee, as may be appropriate, of the county of Gwent

(a) 1971 c. 10.  
(c) 1969 c. 27.

(b) 1972 c. 20.

17	The Gwent police authority	Local matters in relation to any area of the authority included in the new South Wales combined police area	The South Wales Police Authority
		Local matters in relation to any area of the authority included in Gwent	The police committee for the county of Gwent
18	The Breconshire, Glamorgan or Monmouthshire probation and after-care committee	Local matters in relation to any part of the area of the existing committee included in a new county	The committee for the combined probation and after-care area comprised in the new county".

(15) In Schedule 3 (agreements as to the transfer of property other than land), in Part II there shall be added—

"The county council of Monmouthshire or the Dyfed-Powys or Gwent police authority	The county council of, or the police committee for, the county of Gwent or the combined police authorities for the new combined police areas, in which any area of the existing Dyfed-Powys or Gwent combined police area is comprised".
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(16) In Schedule 4 (residual transfer of property etc.), in Part II—

(a) in column (2), in the entry beginning "The water authority within whose area for water supply purposes" there shall be added—

" , or where water is supplied only to constituent members of the transferor authority, the water authority within whose area for water supply purposes the limits of supply of the constituent members, or a majority of the constituent members, are comprised"; and

(b) there shall be added—

"The Carmarthen (Superannuation) Joint Committee	The County Council of Dyfed
The Hawarden-Prestatyn (Superannuation) Joint Committee	The County Council of Clwyd
The Mid Glamorgan (Superannuation) Joint Committee	The County Council of Mid Glamorgan
The Dyfed-Powys police authority	The Dyfed-Powys Police Authority
The Gwent police authority	The police committee for the county of Gwent
The Gwynedd police authority	The North Wales Police Authority
The South Wales police authority	The South Wales Police Authority
The Breconshire probation and after-care committee	The Powys Probation and After-care Committee
The Flintshire, Merioneth and North Wales probation and after-care committees	The Clwyd and Gwynedd Probation and After-care Committee
The Glamorgan probation and after-care committee	The Mid Glamorgan Probation and After-care Committee

The Monmouthshire probation and after-care committee	The Gwent Probation and After-care Committee
Any other probation and after-care committee	The committee for the combined probation and after-care area in which the area of the existing committee is comprised
Any body constituted by an order under section 112(1) of the Local Government Act 1933 or any enactment replaced by that provision, uniting any county boroughs or county districts	The council of the district in which the area of the county boroughs or county districts, or the greater part of the area, is comprised
The West Monmouthshire Omnibus Board	The District Council of Islwyn
The Snowdonia Park Joint Advisory Committee	The County Council of Gwynedd".

(17) Any reference in the principal order to any provision of that order amended by paragraphs (2) to (16) shall be construed as a reference to the provision as so amended.

*Further provision as to inventories*

5.—(1) Any authority from whom any water undertaking, or part of any water undertaking, will be transferred to a water authority by article 7 of the principal order as made shall, not later than 21st March 1974, supply to such water authority a statement of any appropriations made between 26th October 1972 and 10th November 1973 of land held for the purposes of water supply.

(2) Any authority from whom any sewer or any sewage disposal works will be transferred to a water authority by article 8 of the principal order as made shall, not later than 21st March 1974, supply to such water authority a statement of any appropriations subsequent to 26th October 1972 of land held for the purposes of sewerage and sewage disposal.

(3) Any authority from whom any land held for the purposes of sewerage and sewage disposal will be transferred to a water authority by any provision of the principal order as amended by this order other than article 8 shall, not later than 21st March 1974, supply to such water authority—

- (a) an inventory of such land;
- (b) a statement of the appropriations subsequent to 9th November 1973 of land held for the purposes of sewerage and sewage disposal; and
- (c) a statement of the appropriations made between 26th October 1972 and 10th November 1973 of such land.

*Easements and rights over land*

6.—(1) Where parts of any land are in consequence of the principal order vested in two different authorities, and any easement or other right over one part is required to enable the other part to be used, the authority in whom the said other part is vested may serve notice on the authority in whom the said one part is vested specifying such easement or other right and requiring the authority in whom the said one part is vested to grant the same to them on terms specified in the notice.

(2) Any question—

- (a) whether any easement or other right is required to enable the said other part to be used; or

(b) as to the terms on which any easement or other right shall be conferred, shall be determined by the decision of a person agreed on by the authorities concerned or in default of agreement appointed by the Secretary of State.

(3) Paragraphs (4) and (5) of article 38 of the principal order (which make provision in relation to the decision of questions) shall apply as if the provision of this article were contained in the principal order.

*Sale, etc., and development of land*

7.—(1) This article shall cease to have effect on 1st April 1979 except that a certificate given under paragraph (4)(d) or (e) shall continue to have effect as a document of title.

(2) This article applies to—

(a) the councils of counties and districts;

(b) the community councils established by virtue of section 27(3) and(4) of the Act; and

(c) water authorities.

(3) In respect of land vested immediately before 1st April 1974 in the council of an area described in column (1) of the following table (or in the case of any borough in the corporation of the borough) the relevant authorities are the authorities specified in respect of such authority in column (2).

TABLE

(1)	(2)
Any administrative county or county borough	The council of any county or district in which any part of the administrative county or county borough is comprised
	The water authority for the area in which the land is situated
	The area health authority for the area in which the land is situated
Any county district	The council of any county or district in which any part of the county district is comprised
	In the case of land in a community with a community council, whether separate or common, that council
	The water authority for the area in which the land is situated
	The area health authority for the area in which the land is situated

(4) (a) This paragraph applies where an authority to whom this article applies are proposing—

to sell or to exchange,

to lease, or otherwise to dispose of, for a term exceeding 21 years,

land transferred to them by any provision of the principal order other than land transferred by article 7 thereof.



(b) Save as provided in sub-paragraph (e), the authority shall, not less than 30 days before completion of the transaction as between the parties, give notice of their proposal to the other relevant authorities.

(c) Any notice required by sub-paragraph (b) shall—  
be given by recorded delivery;  
indicate whether the land is registered, and, if it is, the title number; and  
include the name and address of the purchaser, lessee or other disponee or of such persons as have been nominated by him.

(d) At the expiration of 30 days from the giving of the notice under sub-paragraph (b) the authority first mentioned in that sub-paragraph shall give to the purchaser, lessee or other disponee, or to such persons as have been nominated by him, a certificate that they gave the notice and where the land is not registered, if that is the case, that no notices under sub-paragraph (f)(ii) were received by them within the period there specified.

(e) Sub-paragraphs (b), (c) and (d)—  
(i) shall not apply where an authority have on an earlier proposal to sell, exchange, lease or otherwise dispose of the land in question taken action under sub-paragraph (b) and no relevant authority or other water or area health authority have lodged a caution with the Chief Land Registrar in respect of the land or given notice by recorded delivery to the first-mentioned authority that they dispute the transfer to such authority;  
(ii) shall not apply to the sale of a Housing Revenue Account dwelling by any authority where a notice applicable to the whole of the estate comprising the dwelling that such estate has been transferred to them has been given by recorded delivery by the authority to the relevant authorities, and no relevant authority or other water or area health authority have given such notice as is described in (i);  
(iii) shall not apply where notice has been given by an authority under paragraph (7) in respect of the land in question, and no relevant authority or other water or area health authority have given such notice as is described in (i),

but on any proposed sale, exchange, lease or other disposition in relation to which, apart from this sub-paragraph, the said sub-paragraphs would have applied such a certificate as is described in sub-paragraph (d) shall be given to the purchaser, lessee or other disponee, or to such persons as have been nominated by him.

In this sub-paragraph “Housing Revenue Account dwelling” means such a dwelling within the meaning of the Housing Finance Act 1972(a).

(f) No claim by a relevant authority or any other water or area health authority that any land described in sub-paragraph (a) was transferred to them by the principal order shall have effect to affect the title of the purchaser, lessee or other disponee unless—

(i) in any case described in (i), (ii) or (iii) of sub-paragraph (e) such a notice as is described in (i) has been given or in the case described in (i) a caution has been lodged with the Chief Land Registrar;

- (ii) in any other case, within 21 days of the giving of the notice required by sub-paragraph (b) the relevant authority or other water or area health authority have—

where the land is registered, lodged a caution with the Chief Land Registrar in respect of the land; or

otherwise, given notice by recorded delivery to the authority first mentioned in sub-paragraph (b) that they dispute the transfer to such authority.

- (g) The provision of sub-paragraph (f) is without prejudice to the Land Registration (Official Searches) Rules 1969(a).

(5) Where an authority to whom this article applies are proposing to lease or otherwise to dispose of, for a term not exceeding 21 years, land transferred to them by any provision of the principal order other than land transferred by article 7 thereof, they may give notice of their proposal by recorded delivery to the other relevant authorities.

(6) No claim by a relevant authority or any other water or area health authority that any land in respect of which notice has been given to them as provided in paragraph (5) was transferred to them by the principal order shall have effect to affect the title of the lessee or other donee, unless within 21 days of the giving of the notice the relevant authority or other water or area health authority have given notice by recorded delivery to the authority first mentioned as aforesaid that they dispute the transfer to such authority.

(7) Where an authority to whom this article applies are proposing to develop any land transferred to them by any provision of the principal order other than land transferred by article 7 thereof, they may give notice of their proposal by recorded delivery to the other relevant authorities.

(8) Nothing in paragraphs (4) to (7) applies to the sale by a local authority of land mortgaged to the authority from whom it was transferred to them by the principal order.

*Use of direct labour for completion of construction*

8. Where any building or work is on 1st April 1974 in course of construction by any authority and—

- (a) by virtue of the principal order the building or work is transferred to one authority; and
- (b) by virtue of orders made under the Act the officers of the first-mentioned authority employed in the construction are transferred to another authority,

the authority mentioned in (a) and the authority secondly mentioned in (b) may enter into an agreement for the completion of the construction by the authority secondly mentioned in (b).

In this article “officers”, in relation to any authority, includes the holders of any offices or employments under that authority.

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(a) S. I. 1969/1179 (1969 II, p. 3474).

*Further provision as to inspection of documents*

9. Any officer of a water authority, duly authorised in that behalf, shall, for the purposes of the functions of the authority, be entitled during office hours to inspect and take extracts from any books or documents of a new town development corporation existing on 31st March 1974 and not in the custody of the authority.

*John Morris,*

Secretary of State for Wales.

12th March 1974.

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## EXPLANATORY NOTE

*(This Note is not part of the Order.)*

General provision was made, for Wales, in the Local Authorities (Wales) (Property etc.) Order 1973, for the transfer of property, liabilities, contracts, etc., notices, and actions and proceedings and causes of action or proceeding from the existing local authorities which go out of existence on 1st April 1974 to the new authorities established by or under the Local Government Act 1972 and the Water Act 1973.

The present Order—

- (a) extends the provisions of the order of 1973, effecting the transfer of further property associated with functions transferred by the Water Act 1973 to the new Water Authorities, the transfer of police property, etc.
- (b) in Articles 5 to 9, makes further supplementary provision.
- (c) in Article 4(13) extends Schedule 1 of the principal Order (transfer of particular properties) by the inclusion of the Schedule described in that paragraph.

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