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STATUTORY INSTRUMENTS

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**1977 No. 1821**

**HOUSING, ENGLAND AND WALES**

**The Housing (Homeless Persons)  
(Property and Staff) Order 1977**

<i>Made</i>	- - - -	<i>7th November 1977</i>
<i>Laid before Parliament</i>		<i>17th November 1977</i>
<i>Coming into Operation</i>		<i>8th December 1977</i>

The Secretary of State for the Environment as respects England and the Secretary of State for Wales as respects Wales, in exercise of the powers conferred on them by section 14 of the Housing (Homeless Persons) Act 1977, and of all other powers enabling them in that behalf, hereby make the following order:—

**Title and commencement**

1. This order may be cited as the Housing (Homeless Persons) (Property and Staff) Order 1977 and shall come into operation on 8th December 1977.

**Interpretation**

2.—(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 Housing (Homeless Persons) Act 1977;

“the appointed day” means 1st April 1978; and

“officer”, in relation to any authority, includes the holder of any office or employment under that authority.

(3) In this order—

(a) references to any enactment shall be construed as references to that enactment as amended, extended or applied by or under any other enactment;

(b) references to any instrument shall be construed as references to that instrument as amended, extended or applied by any other instrument.

(4) Any reference in this order to a numbered article shall 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 be construed as a reference to the paragraph bearing that number in the first-mentioned article.

### **Property, liabilities, contracts, etc., notices and proceedings**

3.—(1) Nothing in this article shall apply to property held for the purposes of, and liabilities incurred, contracts, deeds, bonds, agreements and other instruments subsisting, notices given, actions and proceedings pending, and causes of action or proceeding existing in relation to, any charitable trust.

(2) Save as otherwise expressly provided, on the appointed day—

- (a) all property vested in a county council and within the relevant matters in relation to any district, and all liabilities attaching to the county council in respect of any such property, shall by virtue of this order be transferred to and vest in or attach to the council of the district;
- (b) all other liabilities attaching to a county council and within the relevant matters in relation to any district shall by virtue of this order be transferred to and attach to the council of the district;
- (c) all contracts, deeds, bonds, agreements and other instruments subsisting in favour of, or against, and all notices in force which were given (or have effect as if they had been given) by, or to, a county council in respect of any property or liability transferred by sub-paragraph (a) or (b) shall be of full force and effect in favour of, or against, the authority to whom such property or liability is transferred;
- (d) all other contracts, deeds, bonds, agreements and other instruments subsisting in favour of, or against, and all other notices in force which were given (or have effect as if they had been given) by, or to, a county council and within the relevant matters in relation to any district shall be of full force and effect in favour of, or against, the council of the district;
- (e) any action or proceeding or any cause of action or proceeding, pending or existing at the appointed day, by, or against, a county council in respect of any property or liability transferred by sub-paragraph (a) or (b) shall not be prejudicially affected by reason of this order, and may be continued, prosecuted and enforced by, or against, the authority to whom such property or liability is transferred;
- (f) any other action or proceeding or any other cause of action or proceeding, pending or existing at the appointed day, by, or against, a county council and within the relevant matters in relation to any district shall not be prejudicially affected by reason of this order, and may be continued, prosecuted and enforced by, or against, the council of the district.

(3) The authority to whom any property would but for the operation of this paragraph be transferred by paragraph (2) may agree—

- (a) with the county council that the property shall not be transferred; or
- (b) with any other district council that the property shall be transferred to that council;

and in the case of (b) the property to which the agreement relates shall by virtue of this order be transferred to and vest in or attach to the authority to whom it has been agreed that it shall be transferred, and sub-paragraph (a) of paragraph (2) in so far as it relates to liabilities, and sub-paragraphs (c) and (e) thereof, shall apply as if the property had been transferred by paragraph (2).

(4) Any byelaws in force for the regulation of any property transferred by paragraph (2) or (3) shall have effect as if they had been made by the authority to whom such property is transferred.

(5) Any provision of any local Act or of any order made under any Act which applies to any property transferred by paragraph (2) or (3) to any authority shall have effect with the substitution of references to that authority for any references to (or having effect as references to) the authority from whom the property is transferred.

(6) Any authorisation of the borrowing of money in force in respect of any property or liability transferred by paragraph (2) or (3) to any authority may, subject to the terms applicable thereto, be acted on by such authority.

(7) Any excise licence, operators' licence, public service vehicle licence, road service licence, plating certificate or other document issued in respect of any vehicle transferred by paragraph (2) or (3) to any authority shall have effect as if it had been issued to such authority, and any reference to the authority from whom the vehicle is transferred in any such licence or certificate or in any registration book or other document issued in respect of such vehicle shall have effect as a reference to the authority to whom the vehicle is transferred.

(8) Where parts of any land are in consequence of paragraph (2) 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 within the 6 months following the appointed day 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.

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 or in default of agreement appointed by the Secretary of State.

(9) The provision made by this article is without prejudice to any agreement which may be made for payment in respect of any property transferred by paragraph (2) or (3).

(10) In this article “the relevant matters”, in relation to any district, means—

- (a) in the case of property, property held immediately before the commencement of the Act for the purposes of functions then exercisable under section 21(1)(b) of the National Assistance Act 1948 and used wholly or mainly for those purposes, being—
  - (i) sited property situated in the district and not used wholly or mainly for the purpose of discharging those functions in respect of another district,
  - (ii) specified property in relation to buildings which are sited property falling within (i) above, or
  - (iii) other property, including sited property not situated in the district and specified property in relation to buildings which are such sited property, which is used wholly or mainly for the purpose of discharging those functions in respect of the district;
- (b) in the case of liabilities, liabilities incurred in relation to such functions exclusively in respect of the district;
- (c) in the case of contracts, deeds, bonds, agreements and other instruments and notices, such instruments subsisting and notices given in relation to such functions exclusively in respect of the district; and
- (d) in the case of actions and proceedings and causes of action or proceeding, such actions and proceedings pending or causes existing in relation to such functions exclusively in respect of the district.

(11) In paragraph (10) above—

- (a) “sited property” means—
  - (i) land, including any interest in land and any easement or right in, to or over land, and
  - (ii) buildings not within the meaning of the term “land”;

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and

- (b) “specified property”, in relation to any building, means—
- (i) the fittings, furniture, equipment and records of the building,
  - (ii) any stores in the building which have been provided for the discharge of functions therein, and
  - (iii) any vehicle or other mobile equipment used wholly or mainly in the performance of the functions carried out in the building.
- (12) In the application of paragraph (10) any temporary use of the property shall be disregarded.
- (13) Any question—
- (a) as to the functions for the purposes of which, immediately before the commencement of the Act, any property was held, any liabilities had been incurred, any contract, deed, bond, agreement or other instrument substituted, any notice had been given or any action or proceeding or cause of action or proceeding related, or
  - (b) as to whether any property was, immediately before the commencement of the Act, used as described in article 3(10)(a), or
  - (c) arising under (i), (ii) or (iii) or article 3(10)(a), shall, subject to paragraph (14), be determined by the county council.

(14) If notice is given by a district council that they are dissatisfied with any determination under paragraph (13), the question shall be determined by agreement between the county council and the district council, or failing such agreement by the decision of a person agreed on by those councils or in default of agreement appointed by the Secretary of State.

### **Security for loans**

4. Where under this order any liability or part of a liability charged indifferently on all the revenues of a public body or on any particular revenues of such body is transferred to another public body, the liability or part of the liability shall be charged indifferently to all the revenues of the public body to whom it is transferred and shall cease to be a charge on any revenues or fund of the public body from whom it is transferred.

### **Legal proceedings**

5. All legal proceedings pending at the appointed day shall be amended in such manner as may be necessary or proper in consequence of this order.

### **Liabilities to certain funds**

6.—(1) Where by virtue of this order any matter for the purposes of which in pursuance of paragraph 19 of Schedule 13 to the Local Government Act 1972 moneys forming part of a fund to which that paragraph applies have been used is transferred to an authority other than the authority by whom such fund is maintained on and after the appointed day, the provisions of sub-paragraph (2) of that paragraph, and sub-paragraph (3) thereof in so far as it relates to the debiting of accounts, shall be applicable to the first-mentioned authority.

(2) Where by virtue of this order any matter for the purposes of which in pursuance of regulation B6 of the Local Government Superannuation Regulations 1974<sup>(1)</sup> moneys forming part of a Superannuation fund have been used is transferred to an authority other than the authority by

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(1) (1974 I, p. 1986).

whom the fund is maintained on and after the appointed day, the said regulation shall apply as if the moneys had been lent to the first-mentioned authority.

(3) Where by virtue of this order any matter in respect of which any advance from a fund established or deemed to be established under paragraph 16 of Schedule 13 to the Local Government Act 1972 is not fully repaid is transferred to an authority other than the authority by whom such fund is maintained on and after the appointed day, the first-mentioned authority may treat the outstanding amount of the advance as an advance to any similar fund established or deemed to be established by them and make such payments to that fund as they consider appropriate, but otherwise any liability to make repayments in respect of the advance shall cease.

(4) Where by virtue of this order any matter in respect of which advances from a consolidated loans fund or loans pool would have fallen to be repaid is transferred to any authority other than the authority by whom such fund or pool is maintained on and after the appointed day—

- (a) sums which would have become due and owing to the fund or pool shall be paid by the authority first mentioned to the authority last mentioned:

Provided that the authorities concerned and the lender may agree for the transfer to the authority first mentioned of the liability with respect to any outstanding loan;

- (b) the outstanding amount in respect of any such advances shall be shown in the accounts of the authority first mentioned as loans from other local authorities and as advances to the appropriate borrowing account, and in the accounts of the authority last mentioned as loans to other authorities.

#### **Schemes for the allocation of officers for transfer**

7.—(1) The council of a non-metropolitan county—

- (a) shall if they are notified by the district council that they require a scheme to be made, and
- (b) may in any other case,

make a scheme for the allocation of relevant officers for transfer to the council of a district.

(2) In this article “relevant officer” means an officer of a county council—

- (a) who immediately before the commencement of the Act was employed wholly or partly in the discharge of functions exercisable under section 21(1)(b) of the National Assistance Act 1948, or

(b) who after the commencement of the Act—

- (i) is, under any arrangements made by the county council with a district council, employed wholly or partly in the discharge by the county council of any of the functions of the district council under the Act, or
- (ii) has, under any agreement entered into by the county council with a district council, had his services placed wholly or partly at the disposal of the district council for the purposes of any of those functions.

(3) In any scheme made under this article any arrangements or agreements made under section 101 or 113 of the Local Government Act 1972 shall be taken into account.

(4) In preparing any scheme under this article a county council shall—

- (a) consult the district council and any bodies representative of officers appearing to them to be concerned; and
- (b) (i) notify any officer likely to be allocated for transfer of such likelihood and supply to him a copy of articles 7 to 16; and
- (ii) take into consideration any representations made by such officer.

- (5) Upon making any such scheme a county council shall—
- (a) transmit copies thereof to the district council and any bodies representative of officers appearing to them to be concerned; and
  - (b) notify every officer allocated of such allocation and (unless such copy has already been supplied) supply to him a copy of articles 7 to 16.

(6) Any such scheme may be amended by the county council by whom it was made, but—  
no substantive amendment shall be made in a matter in respect of which there has been no consultation under paragraph (4) with the district council or with any body representative of staff appearing to the county council to be concerned without such consultation; and  
no officer shall be allocated for transfer unless the action described in paragraph (4)(b) has been taken in relation to him.

Upon making any amendment the county council shall—

- (a) transmit copies of the scheme as amended or of the amendments to the district council and any bodies representative of officers appearing to them to be concerned; and
- (b) notify every officer affected by the amendments of his allocation and (unless such copy has already been supplied) supply him with a copy of articles 7 to 16.

(7) If notice is given by the district council that they are dissatisfied with the provisions of any such scheme as made or amended the question shall be determined by agreement between the county council and the district council or failing such agreement by the decision of a person agreed on by them or in default of agreement appointed by the Secretary of State.

Upon any determination which involves a variation of the scheme the county council shall vary it in accordance with the determination and—

- (a) transmit copies of the scheme as amended or of the amendments to the district council and any bodies representative of staff appearing to them to be concerned; and
- (b) notify every officer affected by the variation of his allocation and (unless such copy has already been supplied) supply him with a copy of articles 7 to 16.

(8) In any such scheme, any allocation of a person not in the whole-time employment of the county council shall be limited to the extent of his employment with that council.

(9) Any question by an officer of any authority in relation to the application of a scheme to him shall be determined in accordance with the arrangements applicable to the determination of disputes as to employment and terms and conditions thereof between the officer and the authority, and on the determination of such question the authority shall make any necessary amendment of the scheme.

### **Transfer of officers**

**8.—(1)** Every officer allocated by any scheme made under article 7 for transfer to a district council shall, to the extent of the allocation, be transferred on the appointed day to the employment of that council.

- (a) (2) (a) Subject to sub-paragraphs (b) and (c), any other officer of a county council—
  - (i) who was, immediately before the appointed day, under any arrangements made by the county council with a district council, employed wholly or mainly in the discharge by the county council of any of the functions of the district council under the Act, or
  - (ii) whose services were, immediately before the appointed day, under any agreement entered into by the county council with a district council, wholly or mainly at the disposal of the district council for the purposes of any of those functions,
 shall on the appointed day be transferred to the employment of the district council.

- (b) Sub-paragraph (a) shall not apply to any person unless—
    - (i) he was employed, or his services were available, wholly or mainly in premises transferred by article 3 to the district council on the appointed day, or
    - (ii) he was operating wholly or mainly from such premises, or
    - (iii) he was otherwise employed, or his services were otherwise available, wholly or substantially so in relation to the district.
  - (c) sub-paragraph (a) shall not apply to any person who immediately before the commencement of the Act was employed wholly or mainly in the discharge of any of the county council's social services functions, not being a person whose duties in that employment were wholly or mainly of an administrative nature or consisted wholly or mainly in the carrying out of manual work.
  - (d) In sub-paragraph (c) the expression “social services functions” has the meaning assigned to it by section 3(3) of the Local Authority Social Services Act 1970.
  - (e) Sub-paragraphs (f) to (h) shall have effect in the application of sub-paragraph (a).
  - (f) Where on the appointed day any officer has not taken up the duties of his appointment he shall for the purposes of sub-paragraphs (a) to (c) above be deemed to have done so.
  - (g) Where any officer is on the appointed day absent from his normal duties for the purposes of undergoing training sub-paragraphs (a) and (b) 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, on the appointed day, occupying such different place, situation or employment;
    - (ii) otherwise as if he was, on the appointed day, occupying the place, situation or employment which he occupied immediately prior to the commencement of such training.
  - (h) Where any officer is on the appointed day absent from his normal duties otherwise than for the purpose of undergoing training he shall be deemed to be discharging such duties, and to be discharging them in, or from the premises in, or from, which he normally discharges them.
- (3) The transfer effected by paragraph (2) in its application to any authority applies in the case of a person not in the whole-time employment of the authority to the extent of that person's employment with the authority.
- (4) Any officer who is likely to be transferred by paragraph (2) shall be notified by the county council of such likelihood not later than one month before the appointed day, and (unless such copy has already been supplied) shall be supplied with a copy of articles 7 to 16.
- (a) (5) (a) The following questions by an officer of any authority, namely—
    - (i) any question of hardship; and
    - (ii) any question whether paragraph (2)(a) applies to him,shall be determined in accordance with the arrangements applicable to the determination of disputes as to employment and terms and conditions thereof between the officer and the authority.
  - (b) Any question described in item (ii) of sub-paragraph (a) shall be raised as soon as may be and in any case not later than the expiration of 2 months (or such longer period as may be agreed by the authority) from the notification under paragraph (4).

- (c) Where any question described in sub-paragraph (a) has been determined before the appointed day in such manner that no transfer of the officer is appropriate the officer shall not be transferred by this article.
- (d) Where any such question is so determined in such manner that a transfer of the officer otherwise than in accordance with the provisions of paragraph (1) or (2) is appropriate the officer shall be transferred on the appointed day in accordance with the determination.
- (e) Where any such question is determined on or after the appointed day in such manner that a transfer or further transfer of the officer is appropriate the officer shall be transferred in accordance with the determination at the expiration of 28 days from the date thereof or such other date as may be agreed by the authorities concerned and the officer.
- (f) Where it is determined that an officer will sustain or has sustained hardship in consequence of his transfer (and sub-paragraph (c), (d) or (e) is not applicable) the authority to whom he will be or has been transferred shall in consultation with the officer and representatives of their employees seek a remedy and, to later than the expiration of two months (or such longer period as may be agreed by the officer) following the notification of the determination, notify the officer of any remedy which they are able to offer him or that they are unable to offer him any remedy but that an allowance would be paid to him in respect of the hardship.
- (g) In either event, the officer shall be informed that he may, subject to sub-paragraph (j), request that his employment be terminated and of his entitlements if it is so terminated.
- (h) Any remedy offered under sub-paragraph (f) may be accepted by the officer within the 2 months following the notification thereof, or within such longer period as may be agreed by the authority.
- (i) An allowance in respect of hardship shall be by periodic payments of such amount as may be determined by agreement between the officer and the authority or failing such agreement in accordance with the arrangements applicable to the determination of disputes as to employment and terms and conditions thereof between them. In the event of any change of circumstances the payment of the allowance or the amount thereof may be reviewed by such agreement or failing agreement in accordance with such arrangements.
- (j) No such request as is described in sub-paragraph (g) shall be made after the expiration of 2 months from the determination of the amount of the periodic payments of the allowance.
- (k) Article 15 shall not apply to any officer to whom an allowance is payable under this paragraph.
- (l) If the remedy offered is, with the agreement of the authority from whose employment the officer was transferred, transfer back to the employment of that authority, and that remedy is accepted by the officer and he is so transferred, paragraph (12) of article 9, and articles 10 to 16, shall cease to apply to him. Otherwise, such provisions shall apply to any officer transferred under sub-paragraph (f) as they apply to officers transferred by this article.

### **Protection of officers transferred**

9.—(1) Every officer transferred by or under article 8 to the employment of any authority (other than an officer transferred under paragraph (5)(f) of that article back to the employment of the authority from whose employment he was transferred) shall, so long as he continues in that employment by virtue of the transfer and until he is served with a statement in writing referring to this order and specifying new terms and conditions of employment, enjoy terms and conditions of employment not less favourable than those which he enjoyed immediately before his transfer.

(2) A statement of new terms and conditions of employment shall not be served on any officer in relation to whom a question has been referred under article 8(5) until the determination of the question has been notified.



A statement of new terms and conditions of employment shall not be served on any officer to whom sub-paragraphs (f) to (l) of article 8(5) apply until the remedy offered under the said sub-paragraph (f) or the allowance there referred to has been accepted by the officer.

(3) Subject to paragraph (2), a statement of new terms and conditions of employment may be served before the appointed day.

(4) Subject to paragraph (2), a statement of new terms and conditions of employment shall be served before the expiry of 3 months after the appointed day.

(5) If after service of a statement of new terms and conditions of employment upon any officer (whether before the appointed day or otherwise) a question is referred under article 8(5), the statement shall cease to have effect and paragraphs (1) and (2) shall have effect as if the statement had not been served.

(6) The new terms and conditions of employment shall be such that—

(a) so long as the officer is engaged in duties reasonably comparable to those in which he was engaged immediately before his transfer the scale of his salary or remuneration, and

(b) the other terms and conditions of his employment,

are not less favourable, taken together, than those which he enjoyed immediately before his transfer.

(7) Where between the appointed day and the service of the statement of new terms and conditions of employment upon any officer the scale of the salary or remuneration which such officer enjoyed immediately before the appointed day is improved, paragraph (6)(a) shall have effect as if the scale as improved had been so enjoyed.

(8) Where the new terms and conditions of employment involve any diminution of the scale of the salary or remuneration of an officer they shall not come into effect until the date, not earlier than the expiration of 3 months from the service of the statement thereof, specified in that statement.

(9) Any question by an officer of any authority—

whether duties are reasonably comparable within the meaning of paragraph (6); or

whether the terms and conditions of his employment are such as are required by paragraphs (6) and (7),

shall be determined in accordance with the arrangements applicable to the determination of disputes as to employment and terms and conditions thereof between the officer and the authority.

(10) In this article, “terms and conditions of employment” includes any restriction arising under any Act or any instrument made under any Act on the termination of the employment of any officer.

(11) 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 this article unless the statement so indicates.

(12) A notice to terminate the contract of employment of any officer transferred by article 8, given by reason of the fact that the officer to whom it is given has become redundant in consequence of the Act, shall, unless such officer otherwise agrees, not come into operation earlier than the expiration of 3 months from the service thereof.

### **Secondary and further transfers**

**10.** Any officer transferred by article 8 to the employment of any authority, and any other officer of any relevant authority employed wholly or partly in the discharge by that authority (whether or not by arrangement with any other relevant authority) of functions under the Act, may, within the 2 years following the appointed day, be transferred by the said authority, with the agreement of any other relevant authority, and of the officer, to the employment of that other authority, and article 9 shall thereupon apply to such officer as it applies to officers transferred by article 8.

### **Apprenticeships**

11. Any contract of apprenticeship entered into between any person and a county or district council shall have effect as a contract entered into between such person and the authority to whose employment he is transferred by article 8 or under article 10 or would have been so transferred if he had been in the employment of such county or district council.

### **Saving for training arrangements**

12. Where any officer transferred by article 8 or under article 10 is undergoing training under arrangements which have not been discharged before the appointed day, those arrangements shall continue to apply with the substitution, for the authority in whose employment the officer was prior to the commencement of the training, of the authority to whose employment he has been transferred as aforesaid.

### **Saving for dispensations**

13. Any dispensation from the requirements of any Act or of any instrument made under any Act granted to the authority from whom any officer is transferred by article 8 or under article 10 shall have effect, in relation to such officer, as if it had been granted to the authority to whose employment he has been transferred as aforesaid.

### **Saving for extensions of service**

14. Any extension of service under regulation L15 of the Local Government Superannuation Regulations 1974 effective on the appointed day in relation to an officer transferred by article 8 or under article 10 shall continue to have effect as if it had been made by the authority to whose employment he has been transferred as aforesaid.

### **Travelling and removal expenses**

15. Any additional travelling expenses, and any removal or incidental expenses, reasonably incurred by any officer in consequence of the Act shall be reimbursed by the authority to whose employment he is transferred by article 8 or under article 10.

### **Commencing points on scales**

16. Where in relation to any officer—

- (a) on the scale of salary or remuneration applicable to him immediately before the appointed day he would have become entitled to an increment on that day; and
- (b) by reason of any appointment effective as from the appointed day made by the authority to whose employment he is transferred by article 8 or under article 10 any other scale of salary or remuneration becomes applicable to him as from that day,

any term of his employment as to his commencing point on such other scale shall be applicable as if his employment before, and on and after, the said day were one continuous employment under one authority.

### **General provision as to disputes**

17.—(1) Any question as to the interpretation of this order may 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.

(2) Where a determination required by paragraph (13) of article 3 has not been made by the county council before the appointed day, notice that a question exists may be given within the 12 months following the appointed day by a district council.

(3) Paragraph (4) shall apply where—

(a) at the appointed day—

(i) notice has been given by a district council under paragraph (14) of article 3, or

(ii) notice has been given by any authority that the interpretation of any provision made by paragraph (2) of article 3 is in dispute,

and the question has not been determined; or

(b) within the period of 12 months following the appointed day—

(i) notice is given by a district council under paragraph (14) of article 3, or

(ii) notice is so given under paragraph (2), or

(iii) notice is given by any authority that the interpretation of any provision made by paragraph (2) of article 3 is in dispute.

(4) From the appointed day or from the later day on which the notice is given, as the case may be—

(a) paragraph (2) of article 3 shall cease to have effect in relation to the property;

(b) where notice has been given under paragraph (2), the question shall be determined by agreement between the authorities concerned or failing such agreement by a person agreed on by such authorities or in default of agreement appointed by the Secretary of State; and

(c) on the determination of the question, whether under sub-paragraph (b) above or otherwise—

(i) the determination shall specify the authority, if any, to whom the property is to be transferred, and

(ii) where an authority is so specified, the property shall be virtue of the determination be transferred to and vest in the authority specified in the determination, and the provisions of this order which would have applied to the property if the transfer had been effected by paragraph (2) of article 3 shall apply to it.

(5) Any reference in any provision of this order to the decision of any question by a person shall be construed as including a reference to three persons.

(6) Section 31 of the Arbitration Act 1950 shall have effect for the purposes of the determination of any question by any person or persons under any provisions of this order as if such determination were an arbitration under any other Act within the meaning of that section.

6th November 1977

*Peter Shore*  
Secretary of State for the Environment

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Signed by authority of the Secretary of State for Wales.

7th November 1977

*T. Alec Jones*  
Parliamentary Under Secretary of State  
Welsh Office

## EXPLANATORY NOTE

Section 21(1)(b) of the National Assistance Act 1948 (provision by local authorities of temporary accommodation for persons in urgent need thereof) is repealed on 1st December 1977 by section 20(4) of the Housing (Homeless Persons) Act 1977. Councils of non-metropolitan counties, which have functions under section 21(1)(b) of the Act of 1948, are not housing authorities with duties under the Act of 1977. Councils of non-metropolitan districts are such housing authorities.

This Order provides for the transfer, from councils of non-metropolitan counties to the councils of districts, of property held for the purposes of section 21(1)(b) of the Act of 1948 and related liabilities, contracts, etc. and, with specified exceptions, of staff employed on 30th November 1977 in the discharge of functions under that provision or employed by agreement, after that date, in the discharge of the functions of the district council under the Act of 1977. Staff may be transferred under schemes made by county councils or in accordance with general principles of transfer, and provision is made for the protection of their interests. The transfer of both staff and property will take place on 1st April 1978.