
STATUTORY INSTRUMENTS

1978 No. 240

LONDON GOVERNMENT

**The London Borough of Harrow (Transfer of Housing
Accommodation etc.) Order 1978**

Made - - - - 22nd February 1978

Laid before Parliament 7th March 1978

Coming into Operation 1st April 1978

Whereas the Council of the London Borough of Harrow and the Borough Council of Hertsmere have requested the Secretary of State for the Environment to provide by an order under section 23(3) of the London Government Act 1963(a) for the transfer of certain housing accommodation for the time being vested in the Council of the London Borough of Harrow;

And whereas the said councils have agreed the terms of such transfer;

And whereas the Secretary of State is required by the said section 23(3) to give effect to those terms;

And whereas certain further matters appear to the Secretary of State necessary and proper for the purposes of or in consequence of that transfer;

Now therefore the Secretary of State for the Environment in exercise of powers conferred by sections 23(3) and 84 of the London Government Act 1963 and now vested in him(b), and in exercise of all other powers enabling him in that behalf, hereby makes the following order:—

Title, commencement and interpretation

1. This order may be cited as the London Borough of Harrow (Transfer of Housing Accommodation etc.) Order 1978 and shall come into operation on 1st April 1978.

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 operative date” means 1st April 1978;

“the Secretary of State” means the Secretary of State for the Environment;

“the transferee authority” means the Borough Council of Hertsmere; and

“the transferor authority” means the Council of the London Borough of Harrow.

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

(a) 1963 c. 33.

(b) S.I. 1970/1681.

(c) 1889 c. 63.

(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.

Transfer of property

3. On the operative date all the property described in Schedule 1 to this order and all liabilities (other than those liabilities described in Part II of Schedule 2 to this order) attaching to the transferor authority in respect of that property shall by virtue of this order be transferred to and vest in or attach to the transferee authority, and—

- (a) all contracts, deeds, bonds, agreements and other instruments subsisting in favour of or against, and all notices in force which were given (or having effect as if they had been given) by or to the transferor authority in respect of such property and liabilities, shall be of full force and effect in favour of, or against, the transferee authority; and
- (b) any action or proceeding or any cause of action or proceeding, pending or existing on the operative date, by, or against, the transferor authority in respect of such property and liabilities shall not be prejudicially affected by reason of this order, and may be continued, prosecuted and enforced by, or against, the transferee authority.

4. Any property or liability transferred by article 3 to the transferee authority shall be held or discharged by them for and in respect of the District of Hertsmere.

5. Any byelaws in force for the regulation of any property transferred by article 3 shall have effect as if they had been made by the transferee authority.

6. Any legal proceedings pending on the operative date may be amended and parties may be added or substituted in such manner as may be necessary or proper in consequence of this order.

7.—(1) Where under this order or in any adjustment made in consequence hereof any liability or part of a liability charged indifferently on all the revenues or funds of a public body or on any particular revenue or fund of such a body is transferred to another public body, that liability or part shall be charged indifferently on all the revenues of the public body to whom it is transferred and shall cease to be a charge on any revenue or fund of the public body from whom it is transferred.

(2) In this article “public body” has the same meaning as in section 270 of the Local Government Act 1972(a).

Covenants affecting property

8. Section 62 of the Law of Property Act 1925(b) (which implies certain words in conveyances of land subject to the terms of the conveyance and the provisions therein contained) shall have effect in respect of any property transferred by article 3 as if the property had been the subject of a conveyance on the operative date.

9.—(1) This article applies to any land in respect of which the transferor authority have powers under section 151 of the Housing Act 1957(c) to enforce covenants for the benefit of land transferred by article 3 against an owner for the time being of land.

(a) 1972 c. 70.

(b) 1925 c. 20.

(c) 1957 c. 56.

(2) In respect of any land to which this article applies—

- (a) the transferor authority shall consult with the transferee authority before exercising their powers under the said section 151;
- (b) the transferee authority may require the transferor authority to exercise the said powers in any case where—
 - (i) in the opinion of the former authority such exercise is requisite in the interests of or will benefit any land transferred by article 3, and
 - (ii) the transferee authority undertakes to meet the costs of the transferor authority in so exercising the said powers.

(3) The transferor authority shall notify the transferee authority of all land to which this article applies and provide sufficient particulars of the covenants to which the said section 151 relates.

10. Any covenant (not being a covenant affected by article 9) which would have been enforceable by the transferor authority immediately before the operative date in respect of or for the benefit of land transferred by article 3 and held by that authority immediately before that date for the purposes of the Housing Act 1957 or of any Act re-enacted by that Act shall be of full force and effect in favour of the transferee authority.

Rent books

11. Until a new rent book is issued by the transferee authority in respect of any housing accommodation transferred by article 3, notification of that transfer to the tenant of the said accommodation shall be deemed to be a compliance by the said authority as landlord with the requirements of section 2(1)(a) of the Landlord and Tenant Act 1962(a).

Arbitration

12. Subject to any provision of this order, any dispute arising under this order or in consequence thereof shall be determined by an arbitrator appointed by agreement between the parties in dispute or, in default of agreement, by the Secretary of State, and subject as aforesaid the provisions of the Arbitration Act 1950(b) shall apply to any arbitration under this article.

Terms of transfer of housing accommodation

13.—(1) The transferee authority shall make payments to the transferor authority in accordance with the provisions of Part I of Schedule 2 to this order.

(2) The transferor authority shall discharge the liabilities described in Part II of the said Schedule 2.

Notices to be given

14. To enable the transferor authority to provide the Secretary of State with such information as he may require from time to time in order to determine any question relating to a grant or subsidy or the amount thereof, the transferee authority shall notify the transferor authority of any action taken in respect of any housing accommodation transferred by article 3 being such action as may affect the payment of such a grant or subsidy or the amount thereof.

(a) 1962 c. 50.

(b) 1950 c. 27.

SCHEDULE 1

Article 3

PROPERTY TRANSFERRED TO THE BOROUGH COUNCIL OF HERTSMERE

That area of land approximately 12 acres in extent situated within the Borough of Hertsmere and known as Bushey Housing Estate comprising—

- (a) the housing accommodation numbered 2-32 (evens) Forest Walk, 1-45 (inclusive) and 47-51 (odds) Friars Way, 1-31 (inclusive) and 33-45 (odds) Millbrook Road, 333-355 (odds) and 389-427 (odds) Park Avenue, and 1-27 (odds) Robin Hood Drive;
- (b) the 47 garages located off Millbrook Road;
- (c) all highways, pavements, walkways, garden areas, amenity areas, play areas and other land within the said estate; and
- (d) the land bounded on the north east by Millbrook Road, on the south west by Bushey Mill Lane, and on the north west by the footpath known as Forest Walk, which land is approximately 1.4 acres in extent and is an amenity area forming part of a housing estate.

SCHEDULE 2

Article 13

TERMS OF TRANSFER OF HOUSING ACCOMMODATION

PART I—PAYMENTS TO THE COUNCIL OF THE LONDON BOROUGH OF HARROW

1. In the year ending on 31st March 1979 and in each subsequent year until 31st March 1988 the transferee authority shall pay to the transferor authority by quarterly instalments in arrears a sum being the amount of the rents which would have been charged by the latter authority in that year if the housing accommodation had not been transferred, less the following amounts:—

- (i) the estimated amount of rent rebates applicable to the said rents less the estimated amount which the transferor authority would have received by way of modified rent rebate subsidy in that year if the housing accommodation had not been transferred;
- (ii) the relevant costs which would have been met by the transferor authority in that year if the housing accommodation had not been transferred.

2.—(1) The amount referred to in paragraph 1 above shall for any year be deemed to be equal to the sum of the group aggregate rents charged in that year, and the relevant costs in any year shall be deemed to be equal to the sum of the group aggregate costs in that year.

(2) In sub-paragraph (1) above, "group aggregate rent" means the average rent charged by the transferor authority for dwellings in a comparable class of dwellings, multiplied by the number of dwellings within the relevant group of dwellings; and "group aggregate costs" means the average cost of management and maintenance of dwellings in a comparable class of dwellings multiplied by the number of dwellings within the relevant group of dwellings.

(3) The average rent and average cost referred to in sub-paragraphs (1) and (2) above shall for any year be deemed to be equal to such sums as are certified by the Director of Finance of the transferor authority as the average rent and average cost of management and maintenance for that year of dwellings within each comparable class of dwellings.

3. In the calculation of payments under this Schedule no regard shall be had to any improvement carried out wholly or partly at the expense of the transferee authority, or to any disposal or demolition of any part of the housing accommodation transferred.

4. Where the transferee authority takes any action in respect of housing accommodation transferred by article 3 which results in the reduction or withdrawal of any grant or subsidy payable to the transferor authority, the former shall pay to the latter such sum (whether annually or as a single amount) as may be agreed to represent the value of the grant or subsidy which would but for such action have been payable.

5. After 31st March 1988 the transferee authority shall pay to the transferor authority such sum as may be agreed to meet any outstanding liability of the latter in relation to the housing accommodation transferred by article 3, and any such agreement may include terms as to payment by instalments and as to the allocation of any grant or subsidy receivable by the latter.

6. In this Schedule—

“comparable class of dwellings” means, in relation to a relevant group of dwellings, a class of dwellings within the Housing Revenue Account of the transferor authority which are similar having regard to their age, size and type, to dwellings within that group;

“modified rent rebate subsidy” means modified rent rebate subsidy payable under section 3 of the Housing Rents and Subsidies Act 1975(a);

“relevant costs” means the costs of management and maintenance of the housing accommodation transferred by article 3;

“relevant group of dwellings” means all the dwellings within the housing accommodation transferred by article 3 which are similar in size and type, and

references to rents, rebates and modified rent rebate subsidy are, unless the context otherwise requires, references to rents, rent rebates and modified rent rebate subsidy in respect of the housing accommodation transferred by article 3.

PART II

LIABILITIES OF THE COUNCIL OF THE LONDON BOROUGH OF HARROW

1. The transferor authority shall remain liable for the repayment of money borrowed by them before the operative date in respect of any property transferred by article 3.

2. The transferor authority shall meet the full amount of any claim as to a negligent act or omission or breach of statutory duty made against them by a third party in respect of any property transferred by article 3 provided that such claim—

- (a) relates to an act, omission, or breach which took place before the operative date, and
- (b) is settled for an amount in excess of £100.

3. The transferor authority shall meet all costs of repair and minor improvement started or contracted for before the operative date.

4. Any general directions for the time being in force under paragraph 17(5) and (6) of Schedule 4 to the Housing Finance Act 1972(a) (whether or not expressed to be given also under section 104(4) of that Act) are hereby declared to remain of full force and effect notwithstanding the transfer of housing accommodation effected by this order.

Peter Shore,

Secretary of State for the Environment.

22nd February 1978.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order gives effect to the terms agreed between the Council of the London Borough of Harrow and the Borough Council of Hertsmere for the transfer of housing accommodation (Bushey Housing Estate) to the latter council, and makes certain consequential provision.