

1986 No. 553

LOCAL GOVERNMENT, ENGLAND AND WALES

**The Local Government Reorganisation
(Debt Administration)
(West Midlands) Order 1986**

<i>Made</i>	- - - -	19th March 1986
<i>Laid before Parliament</i>		21st March 1986
<i>Coming into Operation</i>		1st April 1986

The Secretary of State for the Environment, in exercise of the powers conferred upon him by section 66(1) of the Local Government Act 1985(a) and of all other powers enabling him in that behalf, on the application of the councils of the districts in the metropolitan county of West Midlands, hereby makes the following order:—

Citation and commencement

1. This order may be cited as the Local Government Reorganisation (Debt Administration) (West Midlands) Order 1986 and shall come into operation on 1st April 1986.

Interpretation

2. In this order—

“the abolished council” means the West Midlands Metropolitan County Council;

“the Act” means the Local Government Act 1985;

“current deemed borrowing” and “current transferred debt” shall be construed in accordance with article 8(2) of this order;

“deemed borrowing” means the sum which, in accordance with article 4, a relevant authority is deemed to have borrowed from the designated council;

“designated council” means the Council of the Metropolitan Borough of Dudley;

“the fund” means the metropolitan debt administration fund which the designated council is required to establish by article 6(1);

(a) 1985 c.51.

“relevant authority” has the same meaning as in section 58(4)(b) of the Act, except that it does not include the designated council;

“repayment period” means the period specified in article 7(1).

Discharge of certain residuary functions by the designated council

3.— (1) The rights and liabilities of the abolished council in respect of money borrowed by that council, other than money borrowed temporarily for revenue purposes under paragraph 10(1)(a) of Schedule 13 to the Local Government Act 1972(a), which would otherwise be vested in, or fall to be discharged by, the West Midlands Residuary Body by virtue of section 58(1) of the Act (repayment of loans), shall be vested in or be discharged by the designated council.

(2) The liabilities (both as respects principal and interest) which fall to be discharged by the designated council in accordance with paragraph (1) shall be charged on the revenues of the designated council.

Amount of deemed borrowing

4.— (1) For the purpose of providing the designated council with revenues to discharge the liabilities specified in article 3(1), each relevant authority shall be deemed to have borrowed from the designated council on 1st April 1986 a sum which shall be determined in accordance with this article.

(2) The deemed borrowing of the West Midlands Police Authority, the West Midlands Passenger Transport Authority and the West Midlands Fire and Civil Defence Authority shall be an amount equal to the loan debt outstanding immediately before 1st April 1986 which, but for the Act, would have become due on or after that date to the consolidated loans fund of the abolished council and which, as shown in that council's accounts for the financial year ended 31st March 1986, is attributable to the functions for which the Authority in question is to be responsible.

(3) The deemed borrowing of each relevant authority, other than those specified in paragraph (2), shall be the aggregate of—

(a) an amount equal to that part of the loan debt outstanding immediately before 1st April 1986 which, but for the Act, would have become due on or after that date to the consolidated loans fund of the abolished council and which relates to land or other property situated within the area of the relevant authority and which, as shown in that council's accounts for the financial year ended 31st March 1986, is referable—

(i) to one of the following committees of that council—

- (a) Arts and External Relations;
- (b) Consumer Services;
- (c) Economic Development;
- (d) Race Relations and Equal Opportunities;
- (e) Strategic Planning;

(a) 1972 c.70.

- (f) Waste Disposal and Pollution Control; or
 - (ii) to grants made by that council (not within head (i)); and
 - (b) the amounts determined for the authority in accordance with paragraphs (5) and (6).
- (4) For the purposes of paragraph (3), moveable property is situated within the area of a relevant authority if the land on which it was normally kept during the financial year ended 31st March 1986 is so situated.
- (5) An amount to be determined in accordance with this paragraph shall be the amount calculated for the authority in accordance with Schedule 1 to this order.
- (6) An amount to be determined in accordance with this paragraph shall be calculated—
- (a) by deducting from the amount of the liabilities which fall to be discharged by the designated council by virtue of article 3(1) the sum of—
 - (i) the amounts determined in accordance with paragraph (2);
 - (ii) an amount equal to the sum of the loan debts outstanding referred to in paragraph (3)(a), article 5(1)(a) and paragraph 1(a) of Schedule 1; and
 - (iii) an amount equal to the loan debt outstanding immediately before 1st April 1986 which, but for the Act, would have become due on or after that date to the consolidated loans fund of the abolished council and which, as shown in that council's accounts for the financial year ended 31st March 1986, is attributable to the Birmingham International Airport and the West Midlands Probation Service; and
 - (b) apportioning the amount remaining among the designated council and the relevant authorities, other than those specified in paragraph (2), in proportion to the populations of their respective areas.
- (7) For the purposes of paragraph (6), the population of the area of the designated council or of a relevant authority shall be taken to be the number estimated by the Registrar General and certified by him to the Secretary of State by reference to 30th June 1984.

Designated council's transferred debt

- 5.— (1) The amount which is the aggregate of—
- (a) an amount equal to that part of the loan debt outstanding immediately before 1st April 1986 which, but for the Act, would have become payable on or after that date to the consolidated loans fund of the abolished council and which relates to land or other property situated within the area of the designated council and which, as shown in the accounts of the abolished council for the financial year ended 31st March 1986, is referable to one of the committees referred to in article 4(3)(a)(i) or to grants mentioned in article 4(3)(a)(ii);
 - (b) the amount which _____ designated council in accordance with Schedule 1 to this order;

- (c) an amount equal to the loan debt referred to in article 4(6)(a)(iii); and
- (d) the amount which is apportioned to the designated council under article 4(6)(b),

shall be referred to as the designated council's transferred debt.

(2) Article 4(4) shall apply in relation to paragraph (1)(a) as it applies in relation to article 4(3).

The metropolitan debt administration fund

6.— (1) The designated council shall on 1st April 1986 establish and thereafter operate a loans fund which shall be called “the metropolitan debt administration fund”.

(2) The fund shall be used for—

- (a) defraying any expenditure which falls to be met by the designated council by virtue of this order; and
- (b) the repayment or redemption of debt connected with the liabilities which fall to be discharged by the designated council by virtue of article 3(1).

(3) For the purposes of paragraph (2)(a), “expenditure” includes the administrative expenses of the designated council which are properly incurred in the performance of the duties which are imposed upon it by this order.

Repayment of principal

7.— (1) Subject to article 10 (early repayment), a relevant authority shall discharge its liability to the designated council in respect of its deemed borrowing by making repayments of principal to the designated council over a repayment period of 40 years commencing with the financial year beginning 1st April 1986.

(2) The amount of principal which is to be repaid by a relevant authority in each financial year of the repayment period shall be calculated annually by applying the formula specified in Schedule 2 to this order.

(3) The designated council shall pay into the fund all repayments of principal which it has received under paragraph (1) and it shall also pay into that fund amounts equal to the repayments of principal which it would have made if it had been a relevant authority and if its transferred debt had been the deemed borrowing of that authority.

Payment of interest

8.— (1) In each financial year a relevant authority shall pay to the designated council interest on its deemed borrowing at an annual rate which shall be calculated annually by dividing an amount equal to the sum of—

- (a) the interest payable by the relevant authority to the designated council out of the fund; and

(b) the administrative expenses properly payable by the designated council for that year out of that fund,

less any interest payable for the financial year into the fund, other than interest payable into the fund by virtue of this article,

by the sum of the total of the relevant authorities' current deemed borrowing and the designated council's current transferred debt.

(2) In relation to any financial year, the current deemed borrowing of a relevant authority and the current transferred debt of the designated council shall be the amount of its deemed borrowing or, as the case may be, its transferred debt, which remains unpaid or outstanding, respectively, at the end of the last day of the preceding financial year or, in respect of the financial year ending 31st March 1987, the first day of that year.

(3) The designated council shall pay into the fund all payments of interest which it receives under paragraph (1) and it shall also pay into that fund amounts equal to the payments of interest which it would have made if it had been a relevant authority and if its transferred debt had been the deemed borrowing of that authority.

Administrative arrangements

9.— (1) On or before 31st December in each year the designated council shall notify each relevant authority of its estimate of the interest rate which is to apply in the next financial year and of its revised estimate of the interest rate in respect of the current financial year: provided that, in respect of the financial year beginning 1st April 1986, the designated council shall notify each relevant authority on or before 31st May 1986 of its estimate of the interest rate which is to apply in that year.

(2) On 30th June in each year each relevant authority shall pay to the designated council an amount of interest which shall be calculated by multiplying its current deemed borrowing by one half of the estimated interest rate.

(3) On 31st March in each year each relevant authority shall pay to the designated council the principal repayment for that financial year and an amount of interest which shall be calculated by multiplying its current deemed borrowing by one half of the revised estimated interest rate.

(4) On 31st March in each year each relevant authority shall pay to the designated council, in addition to the payment required under paragraph (3), or shall receive from that council, as the case may be, the amount of any difference between the amount paid by the authority to that council on 30th June under paragraph (2) and the amount which the authority would then have paid if the revised estimated interest rate had applied.

(5) On or before 30th June in each year commencing with the financial year beginning 1st April 1987 the designated council shall notify each relevant authority of the actual interest rate for the preceding financial year. Any difference between the amounts received by the designated council during the preceding financial year and the amounts which that council would have received if the actual interest rate had then applied shall be paid by the relevant authority to that council or, council to the relevant authority, on 31st July.

(6) Paragraphs (2) and (3) shall apply to payments which the designated council is required to make by virtue of articles 7(3) and 8(3) as if those payments were repayments of principal and payments of interest made by a relevant authority.

(7) Paragraphs (4) and (5) shall apply in relation to the payment to or by the designated council of the amount of any difference between the amounts paid by that council under paragraphs (2) and (3) and the amounts which that council would have paid if the revised estimated or actual interest rates had applied, as they apply to payments to or by a relevant authority.

Early repayment

10.— (1) A relevant authority may repay the whole or any part of the principal sum outstanding in respect of its deemed borrowing at any time during the repayment period upon giving to the designated council at least 30 days' notice in writing of its intention to do so.

(2) The designated council may at any time discharge its transferred debt either wholly or in part.

Power to borrow

11. Without prejudice to their other borrowing powers, the designated council and a relevant authority may, during the period within which they are required to discharge their liabilities under this order, borrow money for the purpose of discharging those liabilities.

SCHEDULE 1

Article 4(5)

Calculation for the purposes of article 4(5)

1(a). An amount equal to the loan debt outstanding immediately before 1st April 1986 which, but for the Act, would have become due on or after that date to the consolidated loans fund of the abolished council and which, as shown in that council's accounts for the financial year ended 31st March 1986, is attributable to highway purposes shall be apportioned among all the metropolitan district councils within the metropolitan county of West Midlands in proportion to the populations of their respective areas and article 4(7) shall apply for this purpose.

1(b). The amount apportioned to each council in accordance with paragraph 1(a) shall be multiplied by 0.6.

2(a). There shall be established in relation to each council an amount equal to that part of the loan debt referred to in paragraph 1(a) which is attributable to expenditure prior to 1st April 1974 (commencement of the Local Government Act 1972) within the area of that council.

2(b). There shall be apportioned among the councils, in proportion to the capital expenditure of the abolished council for highway purposes within the area of each council, an amount equal to that part of the loan debt referred to in paragraph 1(a) which is attributable to expenditure after 31st March 1974.

2(c). In relation to each council the sum of the amounts established for that council in accordance with paragraphs 2(a) and 2(b) shall be multiplied by 0.4.

3. There shall be added to the amount calculated for each council in accordance with paragraph 1(b) the amount calculated for that council in accordance with paragraph 2(c).

SCHEDULE 2

Article 7(2)

Formula for calculating repayments of principal

The formula specified for the purposes of article 7(2) is

$$\frac{Pr}{(1+r)^n - 1} \quad \text{where—}$$

P is the current deemed borrowing of a relevant authority or, as the case may be, the current transferred debt of the designated council;

r is a rate of 10%; and

n is the repayment period or, in relation to years other than the financial year ending 31st March 1987, the residue of that period.

Kenneth Baker,
Secretary of State
for the Environment.

19th March 1986.

EXPLANATORY NOTE

(This note is not part of the order.)

This order transfers to the Dudley Metropolitan Borough Council ("the designated council") the rights and liabilities of the West Midlands Metropolitan County Council in respect of money borrowed (other than money borrowed temporarily for revenue purposes) which would otherwise have been transferred to the West Midlands Residuary Body (article 3).

It defines the sums which are to be paid to the designated council by the other district councils within the metropolitan county and by the Police, Passenger Transport and Fire and Civil Defence Authorities within that county, for the purpose of enabling the designated council to discharge those liabilities (article 4). It also provides for part of those liabilities to be met by the designated council itself. By agreement the designated council is itself assuming responsibility for the loan debt relating to the Birmingham International Airport and the West Midlands Probation Service (article 5). Payments of principal and interest are to be made over 40 years.

The designated council is required to establish a metropolitan debt administration fund and is empowered to recover the administrative expenses which it incurs in performance of the duties imposed by the order (article 6).

The order also makes consequential administrative arrangements (articles 7-10).

The designated council, the other district councils and the Authorities are empowered to borrow money to discharge their liabilities (article 11).

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