

1988 No. 452

LOCAL GOVERNMENT, ENGLAND AND WALES

The Local Government Reorganisation (Debt Administration) (Merseyside) Order 1988

<i>Made</i> - - - -	<i>10th March 1988</i>
<i>Laid before Parliament</i>	<i>11th March 1988</i>
<i>Coming into force</i> -	<i>1st April 1988</i>

Whereas the Merseyside Residuary Body, acting pursuant to section 67(1)(a) of the Local Government Act 1985(a), has submitted proposals to the Secretary of State for the transfer to other bodies of certain rights and liabilities (being rights and liabilities of that Body which are likely to subsist beyond 31st March 1991):

And whereas the Secretary of State has decided to give effect to those proposals with modifications:

Now, therefore, the Secretary of State, in exercise of the powers conferred on him by sections 58(2) and 67(3) of that Act and of all other powers enabling him in that behalf, hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Local Government Reorganisation (Debt Administration) (Merseyside) Order 1988 and shall come into force on 1st April 1988.

Interpretation

2. In this Order—

“the Act” means the Local Government Act 1985;

“the 1986 Order” means the Local Government Reorganisation (Repayment of Loans) (Merseyside) Order 1986(b);

“deemed borrowing” means the sum which, in accordance with article 6 of this Order, a relevant authority is deemed to have borrowed from the designated council;

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

“early repayment” means, as appropriate, a repayment under article 11(1) of this Order or a discharge under article 11(2);

“the fund” means the metropolitan debt administration fund which the designated council is required to establish by article 7 of this Order;

“the Mersey Tunnels Account” means the account maintained by the Transport Authority in accordance with section 100 of the County of Merseyside Act 1980(c);

(a) 1985 c.51.

(b) S.I. 1986/436.

(c) 1980 c.x; section 100 was amended by paragraph 7(a) of Schedule 2 to the Mersey Tunnels Order 1986 (S.I. 1986/297).

“relevant authority” means any body mentioned in Schedule 1 other than the designated council;
“repayment period” means the period of 38 years specified in article 8 of this Order;
“Residuary Body” means the Merseyside Residuary Body;
“the transfer date” means 1st April 1988;
“the Transport Authority” means the Merseyside Passenger Transport Authority;
“the Tunnel loans” means the money borrowed from the Secretary of State for the Environment(a) under the Mersey Tunnel Acts 1925 to 1972 for the purposes of any road crossing under the river Mersey.

Rights and liabilities in respect of loans

3.—(1) The rights and liabilities of the former Merseyside Metropolitan County Council in respect of money borrowed which on the abolition date became rights and liabilities of the Residuary Body by virtue of section 58(1) of the Act shall, to the extent that they subsist immediately before the transfer date, become on that date rights and liabilities of the designated council or, if they relate to the Tunnel loans, rights and liabilities of the Transport Authority.

(2) The rights and liabilities of the Residuary Body in respect of money borrowed by that Body shall, to the extent that they subsist immediately before the transfer date, become on that date rights and liabilities of the designated council.

(3) The liabilities (both as respects principal and interest) which fall to be discharged by the designated council in consequence of paragraphs (1) and (2) shall be charged indifferently on all the revenues of that council.

(4) The liabilities (both as respects principal and interest) which fall to be discharged by the Transport Authority in consequence of paragraph (1) shall be charged indifferently on all the revenues of the Authority.

Transfer of entitlement to grant

4. Any entitlement of the Residuary Body to the receipt of grant from the Exchequer under section 1 of the Local Government Grants (Social Need) Act 1969(b) shall on the transfer date become an entitlement of the designated council or, if it relates to expenditure for the purposes of Liverpool Airport, an entitlement of the Transport Authority.

The Mersey Tunnels Account

5.—(1) Notwithstanding the requirements as to the operation of the Mersey Tunnels Account, the amount of the liabilities mentioned in article 3(4) shall be debited to that account.

(2) Without prejudice to section 99 of the County of Merseyside Act 1980, the Transport Authority may apply money from its general fund for the purposes of paying interest on or repaying or redeeming debt connected with the Tunnel loans.

Amount of deemed borrowing and designated council's transferred debt

6.—(1) For the purpose of providing the designated council with revenues to discharge the liabilities specified in article 3(1) and (2), each relevant authority shall be deemed to have borrowed from that council on the transfer date the sum specified in Schedule 1 to this Order in relation to the authority in question, being a sum which reflects the obligations of that authority to the Residuary Body by virtue of the 1986 Order which are extinguished by this Order.

(2) In the case of the designated council the sum so specified, being a sum which

(a) The right to repayment of the Tunnel loans is now vested in the Secretary of State for Transport by virtue of article 2(3) of the Transfer of Functions (Transport) Order 1981 (S.I. 1981/238); earlier relevant provisions are article 2(4) of the Secretary of State for Transport Order 1976 (S.I. 1976/1775) and article 2(2) of the Minister of Transport Order 1979 (S.I. 1979/571).

(b) 1969 c.2.

reflects that council's obligations to the Residuary Body by virtue of the 1986 Order, which are extinguished by this Order, is hereinafter referred to as its transferred debt.

The metropolitan debt administration fund

7.—(1) The designated council shall on the transfer date 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 that council by virtue of article 3(1) and (2).

(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 on it by this Order.

Repayment of principal

8.—(1) Subject to article 11 (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 that council over a repayment period of 38 years commencing with the financial year beginning 1st April 1988.

(2) The amount of principal which is to be repaid by a relevant authority in each financial year of the repayment period is 1/38th of the amount of its deemed borrowing.

(3) The designated council shall pay into the fund—

- (a) all repayments of principal which it has received under paragraph (1);
- (b) amounts equal to the repayments of principal which it would be required to make if it were a relevant authority and its transferred debt were its deemed borrowing; and
- (c) any grant received from the Exchequer by virtue of article 4.

Payment of interest

9.—(1) Subject to article 11 (early repayment), in each financial year a relevant authority shall make payments to the designated council in respect of interest on its deemed borrowing in accordance with the formula specified in Schedule 2; and the designated council shall credit the fund with the amounts so paid.

(2) The designated council shall in each financial year pay into the fund an amount calculated in accordance with the formula specified in Schedule 2 by way of notional interest in respect of its transferred debt.

Administrative arrangements

10.—(1) On or before 31st December in each year the designated council shall notify each relevant authority of its estimate of the amount to be paid by that authority in accordance with article 9(1) in respect of the next financial year; and on or before 30th June 1988 of the amount to be so paid in respect of the financial year ending 31st March 1989.

(2) On 30th September and 31st March in each year each relevant authority shall pay to the designated council one half of the amount referred to in article 8(2) and one half of the amount notified to the authority as the council's estimate of the amount payable in accordance with article 9(1) in respect of that year.

(3) On or before 30th June in each year commencing with the financial year beginning 1st April 1989 the designated council shall notify each relevant authority of the actual amount payable by that authority in accordance with article 9(1) in respect of the preceding financial year. Any difference between that amount and the amounts paid by the authority in respect of interest for that year in accordance with paragraph (2) above shall be paid by the authority to the council or, as the case may be, by the council to the authority, on 30th September.

(4) The designated council when estimating interest payments for the purposes of paragraph (1) above shall also estimate the amount payable by it for the relevant year in accordance with article 9(2); and shall on 30th September and 31st March in each year pay into the fund one half of the amount payable in respect of that year by virtue of article 8(3)(b) and one half of the amount estimated to be payable in accordance with article 9(2) in respect of that year.

(5) Where the estimated amount paid in accordance with paragraph (4) differs from the amount actually due for the financial year in question under article 9(2), the designated council shall on 30th September following the end of that year make an appropriate payment into (or withdrawal from) the fund.

Early repayment

11.—(1) A relevant authority may, after giving to the designated council at least 60 days' notice in writing of its intention to do so—

- (a) repay the whole of the principal sum outstanding in respect of its deemed borrowing; or
- (b) on the 31st March in any year, repay any part of that sum.

(2) The designated council may at any time discharge the whole of the balance of its transferred debt or may, on the 31st March in any year, discharge any part of that balance.

(3) Where a relevant authority makes an early repayment under paragraph (1)(b), the amount of future repayments of principal shall be calculated by dividing the amount of its deemed borrowing which remains unpaid at the end of the day on which the early repayment was made by a figure which represents the number of years after that day until the end of the repayment period.

(4) Where a relevant authority makes an early repayment under paragraph (1)(a) before 31st March in any financial year, the amount of interest to be paid in respect of that year shall be the relevant proportion of the amount that would otherwise have been payable in accordance with article 9(1).

(5) Where the designated council makes an early repayment of part of the balance of its transferred debt, paragraph (3) above shall apply as if it referred to the designated council, to repayments under paragraph (2) above and to future payments under article 8(3)(b). Where the designated council makes an early repayment of the whole of the balance of its transferred debt before 31st March in any financial year, paragraph (4) above shall apply as if it referred to the designated council, to a repayment under paragraph (2) above and to amounts payable by virtue of article 9(2).

(6) For the purposes of paragraph (4), the relevant proportion is the same proportion as that which the number of days in the period beginning with the first day of the financial year in which the early repayment is made and ending with the day on which that repayment is made bears to the number of days in the financial year.

Power to borrow

12.—(1) Without prejudice to its other borrowing powers, the designated council may borrow money for the purpose of discharging the part of its liabilities under article 3(1) and (2) of this Order which consists in the repayment of principal.

(2) Paragraph 8 of Schedule 13 to the Local Government Act 1972(a) (power to borrow during the fixed period for repaying loans) shall apply in relation to money borrowed under paragraph (1) as if that money were borrowed under paragraph 1(b) of that Schedule and as if the fixed period were a period of 38 years commencing with 1st April 1988.

(a) 1972 c.70.

Revocation and savings

13.—(1) Subject to paragraph (2), the 1986 Order is revoked.

(2) Article 6(5) of the 1986 Order (end-year settlements) shall continue to have effect until 1st October 1988.

10th March 1988

Nicholas Ridley
Secretary of State for the Environment

SCHEDULE 1

Article 6

AMOUNT OF DEEMED BORROWING AND TRANSFERRED DEBT

<i>Name of body</i>	<i>Amount £</i>
Merseyside Fire and Civil Defence Authority	1,546,640.45
Merseyside Passenger Transport Authority	87,043,549.06
Merseyside Police Authority	11,588,442.41
Merseyside Waste Disposal Authority	8,179,628.28
Knowsley Metropolitan Borough Council	10,429,844.50
Liverpool City Council	30,775,856.66
Sefton Metropolitan Borough Council	18,488,951.02
St. Helens Metropolitan Borough Council	11,686,401.11
Wirral Metropolitan Borough Council	20,890,692.29

SCHEDULE 2

Article 9

CALCULATION OF PAYMENTS

1. The formula mentioned in article 9 is in the case of the designated council and any relevant authority which is a rating authority—

$$\frac{A}{B} \times \frac{C}{D} \text{ where—}$$

A is the aggregate of—

- (a) the interest payable for the financial year in question by the designated council out of the fund; and
- (b) the administrative expenses properly payable by that council for that year out of the fund,

less any interest payable for that year into the fund otherwise than by virtue of article 9;

B is the same proportion as that which the council's transferred debt or, as the case may be, the authority's deemed borrowing, which remains outstanding on the first day of the financial year in question bears to the aggregate of the transferred debt and the deemed borrowing of all the relevant authorities outstanding on that day;

C is the amount of grant credited to the fund in that year in accordance with article 8(3)(c); and

D is the same proportion as that which the council's transferred debt or, as the case may be, the authority's deemed borrowing, which remains outstanding on the first day of the financial

year in question bears to the aggregate of the transferred debt and the rating authorities' deemed borrowing which remains outstanding on that day.

2. The formula in the case of any relevant authority which is not a rating authority is—

A

— where—

E

A has the same meaning as in paragraph 1; and

E is the same proportion as that which the authority's deemed borrowing which remains outstanding on the first day of the financial year in question bears to the aggregate of the designated council's transferred debt and all the relevant authorities' deemed borrowing which remains outstanding on that day.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is concerned with the transfer of the obligations to repay the long-term borrowings of the former Merseyside Metropolitan County Council and of the Merseyside Residuary Body.

The rights and liabilities relating to such borrowings other than certain borrowings relating to the Mersey Tunnels are transferred on 1st April 1988 to the Wirral Metropolitan Borough Council (the designated council). Rights and liabilities relating to certain Tunnel borrowings are transferred to the Merseyside Passenger Transport Authority (article 3).

With one exception, the Order also transfers to the designated council the Residuary Body's entitlement to Exchequer grant under the Local Government Grants (Social Need) Act 1969 (grants in support of the Urban Programme). The exception relates to the entitlement to Exchequer grant under the 1969 Act in respect of Liverpool Airport, which is to pass to the Passenger Transport Authority (article 4).

The Order provides for payments to the designated council by the other district councils within the metropolitan county and by the Fire and Civil Defence, Police, Passenger Transport and Waste Disposal Authorities for the purpose of enabling the designated council to discharge the transferred liabilities. It also provides for part of those liabilities to be discharged by the designated council itself (article 6 and Schedule 1). Payments of principal and interest are to be made over 38 years. The obligations to make these payments replace the deemed borrowing obligations imposed on these bodies by the Local Government Reorganisation (Repayment of Loans) (Merseyside) Order 1986 which is revoked (article 13).

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 7). The Order also makes consequential administrative arrangements (articles 8 to 11 and Schedule 2).

The designated council is empowered to borrow money to discharge that part of its liabilities which consists in the repayment of principal (article 12).

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