
 STATUTORY INSTRUMENTS

1989 No. 2470

LOCAL GOVERNMENT, ENGLAND AND WALES

The Merseyside Residuary Body
(Winding Up) Order 1989

<i>Made</i>	- - - -	<i>20th December 1989</i>
<i>Laid before Parliament</i>		<i>9th January 1990</i>
<i>Coming into force</i>	-	<i>30th January 1990</i>

Whereas the Merseyside Residuary Body, acting pursuant to section 67(1)(b) of the Local Government Act 1985(a), has submitted a scheme to the Secretary of State for its winding up, and the disposal of its remaining functions, property, rights and liabilities—

And whereas the Secretary of State has decided to give effect to that scheme:

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

PART I

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Merseyside Residuary Body (Winding Up) Order 1989 and shall come into force on 30th January 1990.

(2) In this Order—

“the 1980 Act” means the Local Government, Planning and Land Act 1980(b);

“the 1985 Act” means the Local Government Act 1985;

“the abolished council” means the former Merseyside County Council;

“the county” means the county of Merseyside;

“expenditure” in relation to Liverpool or Wirral includes administrative expenses properly incurred by them;

“the local council” means the council of a district in the county and in relation to property means the council of the district in which the property is situated;

“property”, except in article 11, does not include cash or the balance of any fund or account;

“the Residuary Body” means the Merseyside Residuary Body;

“Liverpool” means the council of the City of Liverpool;

“Wirral” means the council of the metropolitan borough of Wirral; and

“the transfer date” means 31st January 1990.

(a) 1985 c.51.

(b) 1980 c.65.

(3) For the purposes of any provision of this Order, other than article 5, which requires the payment or recovery of sums in the appropriate proportions,

- (a) the appropriate proportion in relation to any council is the proportion equal to the proportion which the population of the area of that council bears to the population of the county; and
- (b) the population of an area shall be taken to be the number estimated by the Registrar General and certified by him to the Secretary of State by reference to the 30th June which falls 21 months before the beginning of the financial year in which the payment falls to be made or the sum recovered, as the case may be.

PART II

TRANSFER OF PROPERTY, FUNCTIONS, RIGHTS AND LIABILITIES

Transfer of property, etc

2.—(1) On the transfer date—

- (a) all interests of the Residuary Body in land which is the subject of an agreement for its disposal or option for its purchase shall vest in Liverpool;
- (b) all interests of the Residuary Body in the land described in Column 1 of the Schedule to this Order shall vest in the authority specified in Column 2; and
- (c) subject to paragraph (2), all other interests of the Residuary Body in land shall vest in the local council.

(2) The interests of the Residuary Body in Metropolitan House, Old Hall Street, Liverpool shall not transfer under paragraph (1)(c).

(3) Subject to paragraph (4), all rights and liabilities of the Residuary Body acquired or incurred in connection with, and all records relating exclusively to, any interests in land transferred by paragraph (1) shall vest in the council or authority to which such interests are so transferred.

(4) Where prior to the transfer date the Residuary Body has disposed of any property subject to a covenant that the Residuary Body shall receive a proportion of any subsequent increased development value, the benefit of that covenant shall vest in Liverpool.

(5) In each financial year commencing with the financial year beginning 1st April 1989 Liverpool shall pay to each of the other local councils the appropriate proportion of—

- (a) an amount equal to Liverpool's net revenue receipts from any interest in land or benefit vested by paragraphs (1)(a) or (4); and
- (b) an amount equal to Liverpool's net capital receipts in respect of any interest so vested or the disposal of any such interest so vested.

(6) In the preceding paragraph,—

- (a) "net revenue receipts" means revenue receipts in the year in question after deducting the aggregate amount of expenditure incurred by Liverpool in that year in connection with interests in land vested by paragraph (1)(a); and
- (b) "net capital receipts" means capital receipts in the year in question after deducting any amount by which net revenue receipts are a negative amount.

(7) The balance of the net capital and revenue receipts shall be retained by Liverpool.

Transfer of monies

3.—(1) (a) Immediately before the transfer date the Residuary Body shall set aside from its revenue balances the sum of £100,000; and

- (b) on the transfer date the Residuary Body shall transfer that sum to Wirral.

(2) Immediately before the transfer date the Residuary Body shall set aside from its revenue balances the sum of £1 million to meet its expenditure between the transfer date and 30th March 1990.

(3) On the transfer date all monies held by the Residuary Body and all sums standing to the credit of that Body on any account (other than the sums referred to in paragraphs (1) and (2)) shall vest in Liverpool.

(4) On or before 30th March 1990 Liverpool shall pay to each of the other local councils the appropriate capital and appropriate revenue sums as defined in paragraph (5).

(5) In paragraph (4)–

“appropriate capital sum” means a sum equal to the appropriate proportion of the aggregate amount of capital money held by the Residuary Body or standing to its credit on any account immediately before the transfer date;

“appropriate revenue sum” means a sum equal to the appropriate proportion of the aggregate of all other sums which immediately before the transfer date are held by, or stand to the credit of, the Residuary Body on any account other than the special fund.

(6) The amounts reflecting the difference between the amounts vested by paragraph (3) and the amounts which fall to be paid to other local councils by paragraph (4) shall be retained by Liverpool as their share of the vested amounts.

(7) In this article “capital money” means monies described in article 2(2)(a) of the Local Government Reorganisation (Capital Money) (Metropolitan Counties) Order 1986(a).

Compensation and superannuation matters

4.—(1) All the functions of the Residuary Body in relation to any contract of employment with the abolished council or a contract of employment with the Residuary Body terminating on or before the transfer date and all rights and liabilities of that Body which arise from any such contract shall on the transfer date become functions of, or vest in, Wirral.

(2) Without prejudice to the generality of paragraph (1) the functions of the Residuary Body conferred by regulation 3(1) of the Local Government Superannuation (Miscellaneous Provisions) Regulations 1986(b) shall on the transfer date become functions of, or vest in, Wirral.

(3) All the functions of the Residuary Body relating to the making of payments under the Local Government Reorganisation (Reduction of Redundancy Payment Cases) Scheme 1986(c) shall on the transfer date become functions of, or transfer to, Wirral.

(4) Regulation 3(3) of the Regulations mentioned in paragraph (2) above shall apply to the exercise by Wirral of any discretionary function transferred by paragraph (1) as if references to the appropriate residuary body were references to Wirral.

Block Grant

5.—(1) Any payment which by virtue of any provision of Part VI of the 1980 Act would but for this Order have fallen, by virtue of section 81 of the 1985 Act, to be made by or to the Residuary Body shall be made by or to the local councils in the appropriate proportions.

(2) For the purposes of paragraph (1)–

(a) “the appropriate proportions” shall be construed in accordance with article 1(3)(a); and

(b) the population of an area 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 1983 in the case of any payment attributable to the financial year ended 31st March 1986.

(a) S.I. 1986/2063.

(b) S.I. 1986/380.

(c) Made under section 59(3) of the Local Government Act 1985.

(3) Any information, notice or request under section 65, 66 or 67 of the 1980 Act(a) which but for this article would have fallen to be given or made by or to the Residuary Body shall be given or made by or to Liverpool.

Transfer of proceedings

6.—(1) Subject to paragraphs (2) and (3), on the transfer date in any proceedings before any court or tribunal to which the Residuary Body is a party, Liverpool shall be substituted for the Residuary Body.

(2) In any such proceedings as are mentioned in paragraph (1) but which relate to any matter which by this Order or otherwise is or has been transferred to Wirral, Wirral shall be substituted for the Residuary Body.

(3) In any such proceedings as are mentioned in paragraph (1) but which relate to a property which by this Order or otherwise is or has been transferred to a local council, that local council shall be substituted for the Residuary Body.

Transfers of rights and liabilities

7.—(1) Subject to the preceding provisions of this Order and to paragraph (2), on the transfer date—

- (a) all rights and liabilities and any records of the Residuary Body relating to any function which by virtue of this Order or otherwise becomes or has become a function of Liverpool shall vest in Liverpool;
- (b) all interests of the Residuary Body in the Mersey Barrage Company Limited and in Oyston Cable Communications Group Limited shall vest in Liverpool to be held for the benefit of all the local councils;
- (c) all rights of the Residuary Body in relation to the Merseyside Innovation Centre Limited shall vest jointly in all the local councils;
- (d) all rights and liabilities of the Residuary Body in relation to the Merseyside Enterprise Board shall vest jointly in all the local councils;
- (e) all other rights and liabilities of the Residuary Body in relation to land shall vest in the local council; and
- (f) all remaining rights, liabilities and records of the Residuary Body shall vest in Liverpool to be held for the benefit of, or discharged on behalf of, all the local councils.

(2) Paragraph (1) shall not apply to any right or liability of the Residuary Body in relation to—

- (a) any contract of employment other than those mentioned in article 4(1); or
- (b) the sum set aside under article 3(1).

Consequential financial provisions

8.—(1) Any net capital receipts paid to a local council pursuant to article 2(5)(b) and the balance of net capital receipts retained by Liverpool pursuant to article 2(7) shall be treated for the purposes of Part VIII (capital expenditure) of the 1980 Act as a capital receipt of the council.

(2) Any sum paid to a local council as an appropriate capital sum under article 3(4) or retained by Liverpool pursuant to article 3(6) and reflecting capital monies shall be treated for the purposes of the said Part VIII as a capital receipt of the council.

(3) Regulations under section 72(3)(d) and 75 of the 1980 Act shall apply to amounts to be treated by virtue of this article as capital receipts of a local council for the purposes of Part VIII as they apply to other receipts of the council.

(4) Sums received by Liverpool in respect of the disposal of assets vested in that council by article 2(1)(a) or 2(4) of this Order shall not be capital receipts for the purposes of Part VIII of the 1980 Act.

(a) Section 65 was substituted by paragraph 4 of Schedule 4 to the Local Government Finance Act 1987 (c.6).

9. Any net capital receipts or appropriate capital sums paid to a local council pursuant to article 2(5)(b) or 3(4), and the balance of net capital receipts and the appropriate capital sum retained by Liverpool pursuant to articles 2(7) and 3(6), shall be applied for any purpose for which capital money received by a local council on the disposal of land under Part VII of the Local Government Act 1972(a) may properly be applied.

Consequential administrative arrangements

10.—(1) On or before 30th March in the financial year commencing on 1st April 1989 and on or before 30th June in any later financial year, Liverpool shall notify every other local council of its estimate of the amount to be paid to that council in the current financial year by way of net capital receipts under article 2(5)(b) or an appropriate capital sum under article 3(4) and of the classes of disposals and repayments to which that amount relates.

(2) On making any payment of net capital receipts in pursuance of article 2(5)(b) or of an appropriate capital sum in pursuance of article 3(4) Liverpool shall notify the council to which payment is made of the classes of disposals and repayments to which the payment relates.

(3) For the purposes of paragraphs (1) and (2), disposals and repayments shall be classified in accordance with the Schedule 1 to the Local Government (Prescribed Expenditure) (Consolidation and Amendment) Regulations 1987(b).

(4) When Liverpool send a notification under paragraph (1) or (2) they shall send a copy to the Secretary of State and where he is sent a copy of a notification under paragraph (2) they shall advise the Secretary of State of the amount paid to the relevant council.

(5) Liverpool shall—

(a) on or before the relevant date mentioned in paragraph (1) provide the Secretary of State with an estimate of the amount they anticipate they will retain in the current financial year by way of capital monies and of the classes of disposals and repayments to which that amount relates; and

(b) when they retain any amount following a distribution of capital monies notify the Secretary of State of the amount retained and the classes of disposals and repayments to which that amount relates.

(6) The Local Government Reorganisation (Capital Money) (Metropolitan Counties) Order 1986 shall cease to have effect in relation to the county on the transfer date.

PART III

WINDING UP

Winding Up

11. On 30th March 1990 the Residuary Body shall be wound up and on that date—

(a) such of its remaining functions, rights and liabilities as relate to any contract of employment with the Residuary Body shall transfer to and vest in Wirral; and

(b) any other remaining functions, property, rights and liabilities shall vest in Liverpool and be held by that council for the benefit of all the local councils or discharged by that council on their behalf, as the case may be.

Accounts

12. Any function under—

(a) 1972 c.70.

(b) S.I. 1987/2186, to which there are amendments not relevant to this Order.

- (a) section 78 or 79 of the 1985 Act; or
 - (b) Part III of the Local Government Finance Act 1982(a)
- which would, but for this Order, have fallen to be discharged on or after 30th March 1990 by the Residuary Body shall be discharged by Liverpool.

PART IV

MISCELLANEOUS AND GENERAL

Apportionment

13.—(1) All money transferred to or sums realised by Liverpool or Wirral by or in pursuance of the transfer by articles 6(1), 7(1)(a), (1)(b), (1)(f) and 11 of this Order of any property or rights shall, after deduction of any relevant expenditure, be apportioned among the local councils; and Liverpool or, as the case may be, Wirral, shall, not later than the end of the financial year following that in which it is received, pay the appropriate proportion to each of the other councils and shall retain the balance.

(2) If in any financial year the aggregate in that year of the money and sums referred to in paragraph (1) is insufficient to meet any relevant expenditure for that year, that expenditure shall be apportioned among the local councils; and the appropriate proportion shall be recoverable by Liverpool or Wirral, as the case may be, from each of the other local councils.

(3) In this article, “relevant expenditure” means expenditure attributable to this Order which is not defrayed by virtue of any other provision of this Order.

Continuity of the exercise of functions

14.—(1) Anything done by or in relation to (or having effect as if done by or in relation to) the Residuary Body in the exercise of or in connection with a function which by virtue of this Order becomes the function of Liverpool or Wirral shall so far as is required for continuing its effect after the transfer date have effect as if done by or in relation to Liverpool or Wirral, as the case may be.

(2) Without prejudice to the generality of paragraph (1), that paragraph applies to the making of any application, decision or determination; to the giving of notice; to the entering into of any agreement or other instrument; and to the bringing of any action or proceeding; but nothing in this Order shall be construed as transferring any contract of employment.

(3) Any pending action or proceeding may be amended in such a manner as may be appropriate in consequence of this Order.

Continuity of employment in certain cases

15. Where the employment by the Residuary Body of any person is terminated, and that termination is attributable to any provision of this Order, regulation 5 (continuity of employment) of the Local Government Superannuation (Local Government Reorganisation) Regulations 1985(b) shall apply as if, for the purposes of paragraph 1(b)(ii), the termination were not attributable to an Order under section 67(3) of the 1985 Act.

Complaints of maladministration by Residuary Body

16.—(1) The Parliamentary Commissioner may investigate or, as the case may be, continue to investigate a complaint of maladministration by the Residuary Body notwithstanding its winding up.

(2) In relation to any such investigation begun or continued after the transfer date, the

(a) 1982 c.32.

(b) S.I. 1985/1515.

Parliamentary Commissioner Act 1967(a) shall apply as if for any reference to the principal officer of the Residuary Body there were substituted—

- (a) where the complaint relates to the exercise of a function which by virtue of this Order becomes a function of Wirral, a reference to the proper officer of Wirral;
 - (b) where the complaint relates to land which, by virtue of this Order, vests in a local council, a reference to the proper officer of that council; or
 - (c) in any other case, a reference to the proper officer of Liverpool
- and as if any specified action had been taken by Wirral or as the case may be, by the local council or by Liverpool.

Disputes

17. In the event of a dispute between any of the local councils as to the amount of any expenditure recoverable by Wirral or Liverpool pursuant to this Order, the matter shall be determined by an arbitrator appointed by the Secretary of State; and section 31 of the Arbitration Act 1950(b) shall have effect in relation to the arbitration as if it were an arbitration to which that section applies.

20th December 1989

Chris Patten
Secretary of State for the Environment

SCHEDULE

Article 2(1)(b)

(1)	(2)
1. The land and building consisting of an area of approximately 1725 square metres comprising the Magistrates' Courts situated in St Chad's Drive, Kirkby, shown edged green on the Plan entitled 'The Plan referred to in the Merseyside Residuary Body (Winding Up) Order 1989'.	Knowsley District Council
2. The land and building consisting of an area of approximately 5075 square metres comprising the Police Station situated in St Chad's Drive, Kirkby shown edged blue on the above Plan.	Merseyside Police Authority
3. The land and building consisting of an area of approximately 4005 square metres comprising the Fire Station situated in St Chad's Drive, Kirkby shown edged red on the above Plan.	Merseyside Fire and Civil Defence Authority

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for the winding up of the Merseyside Residuary Body in pursuance of a scheme submitted by that Body to the Secretary of State under section 67 of the Local Government Act 1985.

- (a) 1967 c.13; applied to residuary bodies by paragraph 11 of Schedule 13 to the Local Government Act 1985.
- (b) 1950 c.27; section 31 was repealed in part by the Arbitration Act 1975 (c.3), section 8(2), and amended by the Arbitration Act 1979 (c.42), section 7(1).

Articles 2 to 10 have effect on 31st January 1990 ("the transfer date"). Article 2 provides for land which the Residuary Body has agreed to sell, or which is the subject of an option to purchase, to transfer to Liverpool City Council and for other land to vest in the Council of the district in which it is situated. Article 2 also provides for the transfer of associated rights and liabilities and for the distribution of money attributable to the disposal of land transferred to Liverpool.

Article 3 provides for the distribution of monies belonging to the Residuary Body and for the Residuary Body to set aside a sum to meet its expenditure between the transfer date and 30th March 1990. Article 4 provides for the transfer of remaining functions (in relation to contracts of employment etc. and pensions) to the metropolitan borough of Wirral except in relation to those employees who remain in employment with the Residuary Body on and after the transfer date.

Article 5 provides for payment or recovery of the former Merseyside County Council's entitlement to block grant to be made to or from the district councils in the county.

Article 6 provides for the transfer of proceedings. Article 7 transfers the remaining rights and liabilities of the Residuary Body to Wirral or Liverpool and transfers certain specific interests to all the local councils jointly. Articles 8 and 9 make consequential provision for the treatment of capital receipts. Article 10 requires Liverpool to notify the other councils and the Secretary of State of the amounts of a capital nature which are likely to be available for distribution and which are, in fact, distributed.

Article 11 winds the Residuary Body up on 30th March 1990 transferring its remaining functions, property, rights and liabilities to Liverpool for the benefit of all the councils in the county or, insofar as they relate to contracts of employment, to Wirral.

Article 12 confers on Liverpool the Residuary Body's remaining functions in relation to its accounts.

Article 13 makes general provision for apportioning among the councils in the county the sums received and paid by Liverpool or Wirral. Article 14 provides for continuity in the exercise of functions, and article 15 for the treatment of the employment of the Residuary Body's staff who take up other local government service as continuous for superannuation purposes. Article 16 provides for the handling of complaints of maladministration by the Residuary Body and article 17 provides for the determination of disputes.

Copies of the Plan referred to in the Schedule are deposited, and may be inspected during normal office hours at the offices of the transferee authorities, and at the Department of the Environment, 2 Marsham Street, London SW1.