

1990 No. 1700

NEW TOWNS

ENGLAND AND WALES

The New Towns (Transfer of Housing Stock) Regulations
1990

<i>Made</i> - - - -	<i>14th August 1990</i>
<i>Laid before Parliament</i>	<i>24th August 1990</i>
<i>Coming into force</i>	<i>14th September 1990</i>

The Secretary of State for the Environment, in exercise of the powers conferred upon him by sections 172 and 190(1) of the Local Government and Housing Act 1989(a), and of all other powers enabling him in that behalf, hereby makes the following Regulations:-

PART I
GENERAL

Citation, commencement and application

1.—(1) These Regulations may be cited as the New Towns (Transfer of Housing Stock) Regulations 1990 and shall come into force on 14th September 1990.

(2) These Regulations apply in relation to the disposal of dwellings in England, and of relevant property (wherever situated) relating to such dwellings.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“the 1989 Act” means the Local Government and Housing Act 1989;

“approved person” means a person approved in accordance with regulation 5;

“authority”, in relation to any dwelling, means the district council within whose district that dwelling is situated;

“block of flats” means a building—

(a) containing two or more flats; and

(b) occupied or intended to be occupied wholly or mainly for residential purposes;

“final valuation” means a valuation prepared under regulation 17(1)(b);

“hostel” means a building which is not sheltered housing and in which is provided,

(a) 1989 c.42.

for persons generally or for a class or classes of persons—

(a) either—

- (i) residential accommodation otherwise than in separate and self-contained sets of premises, or
- (ii) residential accommodation with communal facilities which include the services of a resident warden and the use of a common room which is within or in close proximity to the building, and

(b) either board or facilities for the preparation of food adequate to the needs of those persons, or both;

“housing stock” does not include—

(a) any property, rights, liabilities and obligations associated with dwellings within the meaning of section 172(9) of the 1989 Act which, taking account of good property management practice and any proposals there may be to dispose of any property vested in the new town corporation other than their housing stock, ought reasonably to be excluded from disposal under these Regulations; or

(b) liabilities and obligations under Part V of the Housing Act 1985 (a) which, apart from any provision in regulations made under section 172 of the 1989 Act, would not be capable of being assigned or transferred by the corporation;

“initial valuation” means a valuation prepared under regulation 17(1)(a);

“long tenancy” has the meaning given in section 115 of the Housing Act 1985 (b);

“relevant property” means the property, rights, liabilities and obligations which are within the housing stock of a new town corporation and which are (within the meaning of section 172(9) of the 1989 Act) associated with the dwellings comprised in that stock;

“retained dwellings” has the meaning given in regulation 4;

“sheltered housing” means dwellings within paragraph 7, 9 or 10 of Schedule 5 to the Housing Act 1985; and

“tenant”, in relation to a dwelling, means a person holding either a tenancy of the dwelling or a licence to occupy the dwelling as a dwelling, in either case granted by a new town corporation.

(2) Any reference in these Regulations to the transfer of dwellings includes a reference to the transfer with them of any relevant property which relates to those dwellings and which, in accordance with proposals made by the new town corporation under regulation 3, is to be transferred with them.

(3) Any notice under these Regulations shall be in writing and may be served or given in accordance with section 75 of the New Towns Act 1981 (c).

Requirement to make proposals

3.—(1) As soon as practicable after the Secretary of State has given them a notice requiring them so to do, a new town corporation shall make proposals for disposing of their housing stock in accordance with these Regulations.

(2) The corporation may at any time vary the proposals made under paragraph (1).

(3) Subject to the provisions of these Regulations, the disposals shall be on terms agreed between the corporation and the transferees, and, without prejudice to the generality of the foregoing, those terms may provide—

(a) for payments to be made by instalments; and

(b) that the corporation be paid a proportion of any future receipts from the sale of dwellings under Part V of the Housing Act 1985 or from such other disposals as the corporation may specify.

(4) The proposals shall provide that relevant property is to be transferred with dwellings to which it relates, or separately from those dwellings.

(a) 1985 c.68.

(b) Section 115 was amended by paragraph 40 of Schedule 17 to the Housing Act 1988 (c.50).

(c) 1981 c.64.

Retained dwellings

4.—(1) “Retained dwelling” means, subject to paragraphs (2) and (3), any dwelling vested in a new town corporation—

- (a) in respect of which, before the time at which the Secretary of State gave the notice referred to in regulation 3, a notice has been served under section 122 of the Housing Act 1985 (notice of a claim to exercise the right to buy); or
- (b) in respect of which, before that time, any other application to acquire the freehold or a long tenancy has been made to the corporation by the tenant; or
- (c) which is or is likely to be the subject of an application under section 96 of the Housing Act 1988(a); or
- (d) which is likely to be demolished within a reasonable period because of faults in its structure or for any other reason.

(2) A dwelling is a retained dwelling by virtue of paragraph (1)(a) or (b) only if it is not comprised in a block of flats.

(3) A dwelling ceases to be a retained dwelling—

- (a) in respect of a dwelling within paragraph (1)(a), when the notice has been, or been deemed to be, withdrawn, or a lease has been granted pursuant to it under Part V of the Housing Act 1985; or
- (b) in respect of a dwelling within paragraph (1)(b), when the tenant withdraws the application, the corporation determine not to proceed with the transaction, or the corporation pursuant to the application dispose of less than their entire interest in the dwelling; or
- (c) in respect of a dwelling within paragraph (1)(c), when it ceases to be likely that an application under section 96 will be made or will proceed to a disposal, or when, after a disposal pursuant to the application, the corporation retain an interest in the dwelling; or
- (d) in respect of a dwelling within paragraph (1)(d), when it ceases to be likely to be demolished within a reasonable period.

(4) These Regulations apply in relation to retained dwellings as they apply to other dwellings of a corporation except that the retained dwellings shall not be transferred under these Regulations until they cease to be retained dwellings.

(5) Where retained dwellings would have been included with other dwellings in a transfer under regulation 12, 14 or 15 but for the exception in paragraph (4), the transfer of those other dwellings shall be on the terms that the retained dwellings (insofar as the corporation have retained any interest in them) are to be transferred to the transferee of the other dwellings when the retained dwellings cease to be retained dwellings.

Approved Persons

5.—(1) A person is an approved person for the purposes of disposals under these Regulations if approved by the Housing Corporation under this regulation.

(2) The Housing Corporation shall establish (and may from time to time vary) criteria to be satisfied by a person seeking approval under this regulation, and, in deciding whether to give such approval, the Housing Corporation shall have regard to whether the person satisfies those criteria.

(3) An approval under this regulation—

- (a) shall only be given to a person making an application; and
- (b) shall apply in relation to all the housing stock of new town corporations, or such housing stock or housing stock of such description as may be specified in the approval; and
- (c) may be made conditional upon the person concerned entering into such undertakings as may be specified by the Housing Corporation.

(4) If it appears to the Housing Corporation appropriate to do so (whether by reason of a failure to honour an undertaking or to meet any criteria or for any other reason), the Housing Corporation may revoke an approval given under this regulation by notice to the approved person; but such revocation shall not affect any disposal completed before

(a) 1988 c.50.

the notice is served or completed after such service in pursuance of a contract entered into before such service.

Price

6.—(1) Any transfer under regulations 12, 14 and 15 (except of retained dwellings) shall be for the amount (which may be a negative amount) determined in the final valuation.

(2) Any other transfer of property under these Regulations shall be for an amount (which may be a negative amount) equal to the price which, on the basis of the assumptions described in regulation 17(3), it would realise if sold on the open market by a willing vendor.

Land Registration

7.—(1) Where a new town corporation transfer any interest in land under these Regulations, they shall ensure that the instrument by which the transfer is effected contains a statement that the transfer is made under section 172 of the 1989 Act.

(2) Where the title of the corporation to the land transferred is not registered, and the transfer is a conveyance or assignment of a description mentioned in section 123 of the Land Registration Act 1925(a) (compulsory registration of title)—

- (a) that section applies in relation to the instrument by which the transfer is effected, whether or not the land is in an area in which an Order in Council under section 120 of that Act (areas of compulsory registration) is in force; and
- (b) the corporation shall give the transferee a certificate in a form approved by the Chief Land Registrar stating that the corporation are entitled to make the transfer subject only to such encumbrances, rights and interests as are stated in the instrument by which the transfer is effected or summarised in the certificate; and
- (c) for the purposes of registration of title, the Chief Land Registrar shall accept such a certificate as evidence of the facts stated in it, but if as a result he has to meet a claim against him under the Land Registration Acts 1925 to 1986(b) the corporation by whom the transfer was made are liable to indemnify him.

PART II

HOSTELS, SMALL STOCK ETC.

Application of Part

8. This Part of these Regulations applies—

- (a) to any dwellings vested in a new town corporation which are hostels; and
- (b) where there are, excluding hostels and retained dwellings, less than 100 dwellings in a new town vested in the new town corporation at the date of the Secretary of State's notice under regulation 3(1), to the dwellings (including retained dwellings) in the new town vested in the corporation; and
- (c) to relevant property which in accordance with the proposals under regulation 3 is to be disposed of separately from the dwellings to which it relates.

Disposal

9.—(1) A new town corporation shall give effect to their proposals under regulation 3 by disposing of the dwellings (including dwellings which have ceased to be retained dwellings) and relevant property, subject to section 172(4) of the 1989 Act, and to the agreement of the relevant transferee to the terms of the transfer, either by transferring them to the authority, or to one or more approved persons or to the authority and one or more approved persons.

(a) 1925 c.21.

(b) The Land Registration Act 1925; the Land Registration Act 1936 (c.26); the Land Registration Act 1966 (c.39); Part I of the Land Registration and Land Charges Act 1971 (c.54); and the Land Registration Act 1986 (c.26).

(2) Prior to reaching agreement with a particular transferee in relation to any dwellings, the corporation shall consult the tenants of the dwellings and, where a hostel is occupied by licensees under licences granted otherwise than by the corporation, so far as is reasonably practicable those licensees, and shall take into account their views regarding the identity of the transferees.

PART III

GENERAL HOUSING STOCK

Application of Part

10. This Part of these Regulations applies to the dwellings vested in a new town corporation to which Part II does not apply.

Notice to acquire

11.—(1) A new town corporation shall commence to give effect to their proposals under regulation 3 in respect of the dwellings by serving—

- (a) a notice on the authority; and
 - (b) so far as reasonably practicable, one or more notices on one or more approved persons, so that, subject to paragraph (4), each dwelling is specified in one (and only one) of the notices served on an approved person.
- (2) A notice served under paragraph (1) shall contain the initial valuation of—
- (a) in the case of a notice served on the authority, all the dwellings concerned within their district; and
 - (b) in the case of a notice served on an approved person, the dwellings specified in that notice;

and it shall invite a notice in reply to be served within 2 months, or such longer period as the corporation shall determine, of the service of their notice.

- (3) A notice in reply shall state—
- (a) where it is from the authority, that the authority wish to acquire in accordance with these Regulations all the dwellings within their district; and
 - (b) where it is from an approved person, that that person wishes to acquire in accordance with these Regulations all of the dwellings specified in the notice that that person has received.

(4) Where, in relation to the dwellings offered by the corporation by a notice under paragraph (1), an approved person fails to serve the notice in reply, or, after serving such a notice, indicates that that person does not wish to acquire those dwellings, or ceases to be approved, the corporation may serve a further notice relating to those dwellings or any of them on another approved person in accordance with paragraph (1), and under these Regulations that notice shall, as respects those dwellings, be substituted for the earlier notice.

- (5) Unless either—
- (a) there are less than 100 dwellings (excluding hostels and retained dwellings) in a new town vested in the corporation; or
 - (b) the authority have served the notice in reply referred to in paragraph (2) and are willing to acquire under these Regulations the relevant dwellings,

the corporation shall exercise the power contained in paragraph (4) to serve a further notice, in order to secure so far as reasonably practicable that there is in relation to every dwelling in the new town an approved person who has served a notice in reply and is willing to proceed to acquire under these Regulations.

Disposal to approved persons or the authority

12.—(1) This regulation applies in relation to any dwellings where the authority and an approved person have both given the notice in reply referred to in regulation 11(2)

indicating a wish to acquire, and where (subject to paragraph (4)) neither have subsequently indicated that they are not prepared to acquire under these Regulations the dwellings to which their notice in reply relates.

(2) Where this regulation applies, the corporation shall in accordance with regulation 13 consult each of the tenants of the dwellings as to whether the tenant wishes his dwelling to be transferred to the authority or the approved person, and thereafter (subject to section 172(4) of the 1989 Act, to the agreement of the transferee to the terms of the transfer and, in relation to blocks of flats, to the imposition of the condition described in paragraph (3) if so required by that paragraph)–

- (a) each block of flats and each group of sheltered housing shall be transferred to the person for whom the majority of tenants who registered a vote voted; and
- (b) each dwelling which is not within one of the descriptions mentioned in sub-paragraph (a) and whose tenant registered a vote shall be transferred to the person for whom the tenant voted; and
- (c) each dwelling which did not have a tenant, whose tenant did not vote or (as the case may be) each block or group in respect of which there is a tie in the votes referred to in sub-paragraph (a) shall be transferred to the authority or the approved person as determined by the corporation after taking account of good housing management practice.

(3) Where a flat–

- (a) is included in a block of flats which does not include sheltered housing and of which the fee simple or a lease having more than 50 years unexpired at the time of transfer is vested in the corporation; and
- (b) of which the tenant does not have a long tenancy; and
- (c) of which the tenant voted in the consultation for a transfer to a person other than the transferee of the block,

the corporation shall impose the condition that the transferee shall immediately after the transfer grant a lease of the flat to the person for whom that tenant voted subject to that other person's agreement, and such a lease shall contain terms determined by the corporation in accordance with good housing management practice.

(4) If, after the consultation required by paragraph (2), the authority indicate that they are not prepared to acquire under these Regulations the dwellings to which their notice in reply relates, this regulation shall continue to apply insofar as, under paragraph (2), the disposal of a dwelling is to be made to the approved person.

Tenant consultation

13.—(1) The new town corporation shall appoint a person (in this regulation called "the teller") independent of themselves, the authority and any approved person to conduct any consultation under regulation 12 and shall give the teller such information and assistance as the teller shall reasonably require.

(2) The teller shall send to each tenant being consulted–

- (a) a statement prepared by the corporation explaining the operation and purpose of the ballot; and
- (b) a voting form; and
- (c) separate statements, approved by the corporation but prepared by the authority and the approved person who served the notice in reply referred to in regulation 11(2), stating their intentions in relation to the dwellings they may acquire and the address and telephone number from which the tenants may seek further information; and
- (d) a reply-paid envelope for the return of the voting form to the teller.

(3) The teller shall, on the basis of voting forms received by him before the end of such reasonable period as is specified in the statement mentioned in paragraph (2)(a) (which may be a different period for different tenants), inform the corporation of the result of the consultation and shall send a notice to each tenant recording his vote or that no vote is recorded for that tenant.

(4) Every person who is a tenant on the first day on which the teller sends documents to any tenants under paragraph (2) pursuant to a consultation regarding a transfer of dwellings which might be made to a particular approved person shall be consulted under

that consultation, except any tenant who at that date either—

- (a) is obliged to give up possession of the dwelling in pursuance of an order of the court; or
 - (b) will be so obliged at a date specified in such an order,
- unless in either case the corporation certify to the teller that they no longer intend to enforce the order.

(5) For the purposes of this regulation, joint tenants shall be entitled to one vote to be exercised jointly, and shall be sent one copy of the documents specified in paragraphs (2) and (3).

(6) The corporation shall pay—

- (a) the reasonable fees and expenses of the teller; and
- (b) a reasonable amount in respect of the costs of the authority and the approved person incurred in the preparation of the statement mentioned in paragraph (2)(c) and in answering queries from tenants.

Disposal to the authority

14.—(1) This regulation applies in relation to any dwellings where—

- (a) regulation 12 does not apply; and
- (b) the authority have served the notice in reply referred to in regulation 11(2) and are willing to acquire under these Regulations all the dwellings within their district not transferred or to be transferred elsewhere; and
- (c) either—
 - (i) it is not reasonably practicable for an approved person to be served with a notice under regulation 11(1), or
 - (ii) an approved person who has been so served does not serve a notice in reply indicating that that person wishes to acquire, or
 - (iii) having served such a notice, subsequently the approved person indicates that that person does not wish to acquire the dwellings under these Regulations or ceases to be approved; and
- (d) where paragraph (c)(ii) or (iii) applies, the new town corporation have determined not to issue a notice under regulation 11(4) in relation to those dwellings.

(2) Where this regulation applies, the new town corporation shall, subject to section 172(4) of the 1989 Act and the agreement of the authority to the terms of the transfer, transfer those dwellings to the authority.

Disposal to approved persons following a notice in reply

15.—(1) This regulation applies in relation to any dwellings where—

- (a) regulations 12 and 14 do not apply; and
- (b) an approved person (“the first approved person”) has served the notice in reply referred to in regulation 11(2) in relation to the dwellings, and is willing to acquire those dwellings under these Regulations.

(2) Where this regulation applies, the new town corporation shall serve a notice on the tenants of those dwellings—

- (a) informing them of their right to find another approved person to acquire the dwellings; and
- (b) containing such statement approved by the corporation and prepared by the first approved person of that person’s intentions regarding the dwellings and the terms under which they will be let after the transfer.

(3) If within 9 months of the date of the notice to tenants served by the corporation under paragraph (2) and, in respect of dwellings to which that notice relates, an approved person (“the second approved person”) other than the first approved person serves a notice on the corporation that that person is willing to accept the transfer of specified blocks of flats, groups of sheltered housing or other dwellings under these Regulations and that—

- (a) in respect of such blocks of flats and groups of sheltered housing, the tenants of more than half the flats in each block or half the dwellings in each group; and
- (b) in respect of such other dwellings which are not in blocks of flats or groups of sheltered housing, the tenants,

have given a notice to that second approved person agreeing to that transfer, the corporation shall, subject to section 172(4) of the 1989 Act and the agreement of that approved person to the terms of the transfer, transfer those blocks of flats, groups of sheltered housing and other dwellings to that approved person.

(4) Where a dwelling is let to joint tenants, the notice by tenants referred to in paragraph (3) shall be given by them jointly.

(5) The corporation shall after the expiry of the 9 month period referred to in paragraph (3), transfer to the first approved person the dwellings mentioned in paragraph (2) not transferred or to be transferred under paragraph (3), subject to section 172(4) of the 1989 Act and the agreement of that person to the terms of the transfer.

Disposal to approved persons in absence of a notice in reply

16.—(1) This regulation applies in relation to any dwellings where—

- (a) regulations 12, 14 and 15 do not apply; and
- (b) the new town corporation are not bound by regulation 11(5) to issue a further notice to an approved person under regulation 11(4) and have determined not to do so.

(2) Where this regulation applies the corporation shall dispose of the dwellings, subject to section 172(4) of the 1989 Act and the agreement of the relevant transferee to the terms of the transfer, by transferring them to one or more approved persons.

(3) Prior to reaching agreement with a particular transferee in relation to any dwellings the corporation shall consult the tenants of the dwellings and shall take into account their views regarding the identity of the transferees.

Valuation

17.—(1) The new town corporation shall appoint and pay the reasonable fees and expenses of valuers independent of themselves, any authority and any approved persons who shall prepare—

- (a) an initial valuation of dwellings (except retained dwellings) to be included in a notice to be given by the corporation under regulation 11(1); and
- (b) a final valuation of dwellings (except retained dwellings) to be transferred under regulation 12, 14 or 15.

(2) The corporation shall give to the valuers such information and assistance as they shall reasonably require.

(3) The valuations referred to in paragraph (1) shall be on the basis of the price the property to be transferred would realise if sold on the open market by a willing vendor on the following assumptions—

- (a) that any dwellings and other property are sold subject to any subsisting tenancies but otherwise with vacant possession;
- (b) that the only bidders in the market for any dwellings (but not for any relevant property) are approved persons and other persons who fulfil the criteria for approval established under regulation 5; and
- (c) that any property is to be conveyed on the terms which have been agreed in relation to its transfer under these Regulations.

Signed by authority of
the Secretary of State for the Environment

14th August 1990

Michael Spicer
Minister of State,
Department of the Environment

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision under section 172 of the Local Government and Housing Act 1989 for the transfer of new town housing stock.

Part I contains general provisions. Under regulation 3, new town corporations may be required by the Secretary of State to make proposals for the disposal of their housing stock. Certain dwellings shall be retained and, under regulation 4, only transferred when they cease to satisfy the requirements for retention. Under regulation 5, persons may be approved by the Housing Corporation as potential acquirers. Regulation 6 makes provision regarding the price at which property is to be transferred. Regulation 7 contains land registration requirements.

Part II (consisting of regulations 8 and 9) relates to the transfer of stock which consists of hostels, cases in which the whole of the stock, excluding hostels and retained dwellings, is less than 100 dwellings, and property transferred separately from any dwellings.

Part III relates to the transfer of other housing stock. Regulation 11 provides for the new town corporation to offer dwellings to the district council and approved persons. Regulation 12 provides for the transfer of stock which both the council and an approved person wish to acquire, following consultation with tenants under regulation 13. Regulation 14 provides for the transfer to the district council of dwellings in respect of which approved persons do not indicate a willingness to acquire. If the district council does not indicate under these Regulations that it wishes to acquire, dwellings will be transferred to approved persons under regulation 15 or 16. Regulation 17 provides for valuations.