
STATUTORY INSTRUMENTS

1995 No. 2796

LOCAL GOVERNMENT, ENGLAND AND WALES

The Local Government Changes For England (Property Transfer and Transitional Payments) (Amendment) Regulations 1995

<i>Made</i>	- - - -	<i>25th October 1995</i>
<i>Laid before Parliament</i>		<i>2nd November 1995</i>
<i>Coming into force</i>	- -	<i>23rd November 1995</i>

The Secretary of State for the Environment, in exercise of the powers conferred on him by sections 19 and 26 of the Local Government Act 1992⁽¹⁾, and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation commencement and interpretation

1. These Regulations may be cited as the Local Government Changes for England (Property Transfer and Transitional Payments) (Amendment) Regulations 1995 and shall come into force on 23rd November 1995.

Amendment of Regulations

2.—(1) The Local Government Changes for England (Property Transfer and Transitional Payments) Regulations 1995⁽²⁾ shall be amended in accordance with the following paragraphs of this regulation.

(2) In regulation 2 (interpretation)—

(a) in paragraph (1)—

(i) after the definition of “the Act”, insert—

““the 1947 Act” means the Fire Services Act 1947”⁽³⁾;

(ii) in the definition of “successor authority”, for “an authority” (in both places where those words occur) substitute “a principal council”; and

(b) in paragraph (2)(b), for “the authority” substitute “the principal council”.

(3) In regulation 3 (application and interpretation of Part)—

(1) 1992 c. 19.

(2) S.I.1995/402; regulation 4(6) is amended by regulation 3 of S.I. 1995/1748.

(3) 1947 c. 41.

- (a) in paragraph (1), after sub-paragraph (a) insert—
- “(aa) any property which is held by a fire authority solely in connection with the provision of fire services and any rights or liabilities held or incurred by such an authority in respect of—
- (i) any contract of employment with a person who is a member of, or employed wholly or mainly for the purposes of, the fire brigade maintained by such an authority in pursuance of the 1947 Act;
 - (ii) the Firemen’s Pension Scheme as set out in Schedule 2 to the Firemen’s Pension Scheme Order 1992(4); or
 - (iii) any contract for the provision of services or the delivery of goods solely in connection with the provision of fire services;” and
- (b) in paragraph (2)—
- (i) after the definition of “charitable purposes” insert—

““combination scheme” means a combination scheme made under the 1947 Act,

“combined fire authority” means an authority which for the time being is constituted a fire authority by a combination scheme;”(5); and
 - (ii) after the definition of “contract” insert—

““fire authority” has the same meaning as in the 1947 Act;”.
- (4) In regulation 4 (information for facilitating implementation), after paragraph (6) add—
- “(7) Paragraphs (2)(b), (3)(b) and (4) above shall have effect in relation to a combined fire authority constituted before the reorganisation date, with respect to an area which is, at the date the authority is constituted, the whole or part of the area of a fire authority which is an abolished authority or the relinquishing authority in relation to a transferred area as if—
- (a) the references to a successor authority or, as the case may be, the acquiring authority in relation to that area included a reference to the combined fire authority;
 - (b) the references to property were references to property held or used by the abolished authority or the relinquishing authority concerned partly for the purposes of the provision of fire services and partly for other purposes; and
 - (c) the references to rights or liabilities were omitted.”.
- (5) In regulation 5 (agreements for the transfer of property etc.)—
- (a) in paragraph (1)—
 - (i) after “regulation” insert “or regulation 5A”;
 - (ii) in sub-paragraph (a), for “investments of an authority” substitute “property of an authority consisting of cash or investments”; and
 - (iii) in sub-paragraph (c), delete “such investments or”; and
 - (b) after that paragraph, insert—

“(1A) Where a section 17 order includes provision modifying the 1947 Act for the purposes of the making, before the reorganisation date, of a combination scheme with respect to an area which is, at the date the order is made, the whole or part of the area of a fire authority which is an abolished authority or the relinquishing authority in relation

(4) S.I. 1992/129.

(5) For combination schemes, see sections 5 to 10 of the 1947 Act.

to a transferred area, nothing in this regulation shall apply to any property held or used by such an authority partly for the purposes of the provision of fire services and partly for other purposes.”.

(6) After regulation 5, insert—

“Agreements for the transfer of property etc. of fire authorities

5A.—(1) Where a section 17 order includes such provision as is mentioned in regulation 5(1A) and a combined fire authority is constituted, before the reorganisation date, with respect to an area which is, at the date the order is made, the whole or part of the area of a fire authority which is an abolished authority or the relinquishing authority in relation to a transferred area, the relevant authorities in relation to such a fire authority shall, during the relevant period, use their best endeavours to make agreements which identify—

- (a) any property of the fire authority concerned to which paragraph (2) below applies; and
- (b) in the case of any such property which is land, such, if any, of it as will not be required by any of them for the purposes of, or in connection with, the exercise of functions on and after the reorganisation date (“surplus land”).

(2) This paragraph applies to any property held or used partly for the purposes of the provision of fire services and partly for other purposes.

(3) Where an agreement under paragraph (1) above identifies any property of a fire authority which is an abolished authority—

- (a) in the case of surplus land, the relevant authorities in relation to that authority shall, during the relevant period, use their best endeavours to make agreements which—
 - (i) specify one of the successor authorities for the purposes of regulation 5B(1); and
 - (ii) provide for the distribution among all of the successor authorities of receipts from its disposal in accordance with regulation 10; and
- (b) in any other case, the relevant authorities shall, during the relevant period, use their best endeavours to make agreements which specify one of the relevant authorities for the purposes of regulation 5B(1).

(4) Where an agreement under paragraph (1) above identifies any property (other than surplus land) of a fire authority which is the relinquishing authority in relation to a transferred area, the relevant authorities shall, during the relevant period, use their best endeavours to make agreements which—

- (a) specify one of the relevant authorities (other than the relinquishing authority) for the purposes of regulation 5B(1); or
- (b) provide for its retention by the relinquishing authority.

(5) Where the relevant authorities in relation to a fire authority which is the relinquishing authority in relation to a transferred area are unable to make an agreement under paragraph (4) above in respect of any property to which paragraph (2) above applies, any of those authorities may, before the reorganisation date, serve on the other such authorities a notice specifying that property for the purposes of paragraph (5) of regulation 5B.

(6) Any agreement under this regulation shall be in writing and be sealed, before the end of the relevant period, by all the relevant authorities concerned.

(7) In this regulation and regulation 5B—

“the relevant authorities”, in relation to a fire authority, means—

- (a) where that authority is an abolished authority, any successor authority in relation to that authority and the combined fire authority concerned; or
- (b) where the fire authority is the relinquishing authority in relation to a transferred area, that authority, any authority which is the acquiring authority in relation to a transferred area which is part of the area with respect to which the combination scheme in question is made and the combined fire authority concerned; and

“the relevant period” means the period beginning with the date on which the combined fire authority concerned is constituted and ending with the date immediately before the reorganisation date.

Vesting of property of fire authorities

5B.—(1) Where an agreement under paragraph (3) or (4) of regulation 5A provides for the transfer of any property of a fire authority to a relevant authority, the property shall, on the reorganisation date, vest in that authority.

(2) Paragraph (1) above shall not apply to vest any surplus land, or any associated property in relation to that land, where an agreement under paragraph (3) of regulation 5A does not include the provision mentioned in sub-paragraph (a)(ii) of that paragraph.

(3) Where any land of a fire authority which is an abolished authority vests in a relevant authority by virtue of paragraph (1) above and any associated property in relation to the land does not vest in that authority or another relevant authority by virtue of that paragraph, the associated property shall, on the reorganisation date, vest in the relevant authority in which the land is vested.

(4) Any of the relevant authorities in relation to a fire authority which is the relinquishing authority in relation to a transferred area may, during the period of six months beginning with the reorganisation date, serve on the other such authorities a notice specifying, for the purposes of paragraph (5) below, any property to which regulation 5A(2) applies which was not identified before that date.

(5) During the period of six months beginning with the reorganisation date, the relevant authorities in relation to a fire authority which is the relinquishing authority in relation to a transferred area shall make agreements under this paragraph providing for the transfer to a relevant authority (other than the relinquishing authority), or the retention by that authority, of any property which has been specified for the purposes of this paragraph in a notice under regulation 5A(5) or paragraph (4) above.

(6) Where an agreement under paragraph (5) above provides for the transfer to a relevant authority of any property mentioned in that paragraph, the property shall, on such date as shall be specified in the agreement for the purposes of this paragraph, vest in that relevant authority.”.

(7) In regulation 6 (vesting of property etc. of abolished authorities)—

- (a) in paragraph (5)(b), after “such property” insert “or in respect of any such property as is mentioned in regulation 5B(2)”; and
- (b) in paragraph (9)(a), for “paragraph (4), (6) or (8) above” substitute “one of the foregoing provisions of this Part”.

(8) In regulation 7 (vesting of residual rights and liabilities of abolished authorities)—

- (a) in paragraph (2)—
 - (i) in sub-paragraph (a), for “paragraph (4) of regulation 6” substitute “one of the foregoing provisions of this Part”;
 - (ii) in sub-paragraph (b), for “vested by virtue of that paragraph” substitute “so vested”;
- and

- (iii) in sub-paragraph (c), for the words from “vested in a” to “that paragraph” substitute “so vested”;
- (b) after paragraph (4) insert—
- “(4A) Where any property of the abolished authority vests in a successor authority by virtue of any of the foregoing provisions of this Part and any rights or liabilities exclusively in respect of such property are not vested by virtue of any such provision, the rights or liabilities shall, on the reorganisation date, vest in the successor authority in which the property is vested.
- (4B) Any rights or liabilities of the abolished authority—
- (a) which arise in relation to anything which, by virtue of regulation 4 of the Local Government Changes for England Regulations 1994, has effect as if done, by or in relation to a successor authority or two or more successor authorities; and
- (b) which are not vested by any of the foregoing provisions of this Part,
- shall, on the reorganisation date, vest in that successor authority or, as the case may be, those successor authorities jointly and severally.”(6); and
- (c) in paragraph (5) for the words from “regulation 6” to “this regulation” substitute “one of the foregoing provisions of this Part”.
- (9) In regulation 8 (vesting of property etc. of relinquishing authorities)—
- (a) after paragraph (3) insert—
- “(3A) The relinquishing authority in relation to a transferred area or the acquiring authority in relation to that area may, during the period of six months beginning with the reorganisation date, serve on the other a notice specifying, for the purposes of paragraph (4) below, any property, rights or liabilities mentioned in regulation 5(5)(a) which were not identified before that date.”; and
- (b) in paragraph (4), after “regulation 5(7)” insert “or paragraph (3A) above”.
- (10) In regulation 10 (disposal of surplus land), in paragraph (7), in the definition of “surplus land”, after “regulation 5” add “or paragraph (1)(b) of regulation 5A”.
- (11) In regulation 13 (interpretation of Part and general provision)—
- (a) in paragraph (1), in the definitions of “designated authority” and “participant authority”, delete “which are principal councils”;
- (b) in paragraph (2), for “Schedule 1” substitute “the Schedule to these Regulations (“the Schedule”)”; and
- (c) in paragraph (3), for “Schedule 1” substitute “the Schedule”.
- (12) In regulations 14 (initial calculations), 15 (further calculations), 16 (calculations following determination of differences) and 17 (payments by or to the designated authority) for “Schedule 1” (wherever that expression occurs) substitute “the Schedule”.
- (13) In regulation 19 (disputes)—
- (a) in paragraph (1)—
- (i) after “these Regulations” insert “or any provision of a section 17 order which relates to the vesting of any property, rights or liabilities”; and
- (ii) in sub-paragraph (i), after “regulation” insert “5B(5) or”;
- (b) in paragraph (2)—
- (i) after “Regulations” (where it first occurs) insert “or a section 17 order”; and

(6) S.I. 1994/867; a new regulation 4 was substituted by S.I. 1995/1748.

- (ii) in sub-paragraph (a) delete “of these Regulations”;
 - (c) in paragraph (3), after “liabilities” insert “and may, in respect of any property which is land, identify the land as surplus land for the purposes of regulation 10”; and
 - (d) in paragraph (4), in sub-paragraph (b), for “a provision of these Regulations” substitute “the provision in question”.
- (14) In regulation 21 (designated authorities: recovery of expenditure and distribution of surpluses), in paragraph (2), after “equal to” insert “the designated authority’s estimate of” and for “by the designated authority” substitute “or to be received by that authority”.
- (15) In the Schedule (transitional payments), in paragraph 3—
- (a) in sub-paragraph (b)(i) of items F, GA and GB for “the acquiring authority”, wherever that expression occurs, substitute “any other authority”; and
 - (b) in item H, delete “in relation to all participant authorities” and, after “above” insert “in relation to—
 - (a) in a case where the designated authority is a successor authority in relation to an abolished authority, all participant authorities; and
 - (b) in a case where the designated authority is the relinquishing authority in relation to a transferred area, the participant authority and any other principal council which is the acquiring authority in relation to a transferred area which, immediately before the reorganisation date, was comprised in the area of the relinquishing authority”.

Signed by authority of the Secretary of State for the Environment

25th October 1995

David Curry
Minister of State,
Department of the Environment

EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations amend the Local Government Changes for England (Property Transfer and Transitional Payments) Regulations 1995 (“the Property Regulations”) which make provision of general application for the transfer of the property, rights and liabilities of local authorities which are subject to structural or boundary changes under the Local Government Act 1992.

Part II of the Property Regulations is amended to include specific provision in respect of the property of existing fire authorities. Regulation 3 is amended to exclude a category of property, rights and liabilities of fire authorities from the scope of Part II. Regulation 5 of those Regulations will no longer apply in respect of property of fire authorities which is held or used partly for fire purposes and partly for other purposes. Such property will instead be dealt with in accordance with the new regulations 5A and 5B inserted by these Regulations: these enable such property to be vested in accordance with agreements made between affected local authorities and combined fire authorities.

Regulation 7 of the Property Regulations is amended to provide for residual rights and liabilities of abolished authorities to vest in accordance with the categories of description in the new paragraphs (4A) and (4B) inserted in that regulation by these Regulations.

Regulation 8 is amended to enable the relinquishing and the acquiring authority in relation to a transferred area to make agreements, during the six months following a reorganisation date, in respect of property, rights or liabilities which were not identified before that date.

Regulation 19 of the Property Regulations is amended so that its provisions relating to arbitration may also apply where property, rights or liabilities are vested by an order under section 17 of the 1992 Act.

Other minor and drafting amendments are made by these Regulations.