
STATUTORY INSTRUMENTS

1996 No. 312

LOCAL GOVERNMENT, ENGLAND AND WALES

The Local Government Changes for England (Property Transfer and Transitional Payments) (Amendment) Regulations 1996

<i>Made</i>	- - - -	<i>13th February 1996</i>
<i>Laid before Parliament</i>		<i>20th February 1996</i>
<i>Coming into force</i>	- -	<i>12th March 1996</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 and commencement

1. These Regulations may be cited as the Local Government Changes for England (Property Transfer and Transitional Payments) (Amendment) Regulations 1996 and shall come into force on 12th March 1996.

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), in paragraph (1) after the definition of “council tax base”, insert—

““HRA dwelling” means a dwelling comprised in HRA property;

“HRA property” means property in respect of which a local housing authority is required under section 74 of the 1989 Act to keep an account, called the “Housing Revenue Account”, of sums falling to be credited or debited in respect of that property;”

(3) In regulation 5 (agreements for the transfer of property etc.)—

(a) in paragraph (2), for “paragraph (3)”, substitute “paragraphs (2A) and (3)”;

(b) after paragraph (2) insert—

(1) 1992 c. 19.

(2) S.I. 1995/402; amended by S.I. 1995/1748 and 2796.

- “(2A) An agreement pursuant to paragraph (2) above shall not identify any HRA dwellings pursuant to paragraph (2)(d)(i).;”
- (c) in paragraph (6)(b)(ii), after the word “property” insert “other than a HRA dwelling”; and
- (d) in paragraph (7), after “sub-paragraph (a) of that paragraph”, insert “(other than HRA dwellings)”.
- (4) In regulation 6 (vesting of property etc of abolished authorities)—
- (a) after paragraph (5), insert the following—
- (a) “(5A) This paragraph applies to HRA dwellings of an abolished authority and to other HRA property specified in sub-paragraph (c) all of which HRA dwellings and HRA property are not vested by virtue of paragraph (4) above.
- (b) Any HRA dwelling shall, on the reorganisation date, vest in the successor authority for the area in which it is situated.
- (c) Any HRA property which is exclusively enjoyed or used in connection with any dwelling vested by virtue of sub-paragraph (b) above shall, on the reorganisation date, vest in the authority in which the dwelling vests on that date.;
- (b) in paragraph (6), for “paragraph (4)” substitute “paragraph (4) or (5A)” and for “that paragraph” substitute “either paragraph”; and
- (c) in paragraph (9)(b), after “such property” insert “(other than rights or liabilities in respect of a claim by any person for personal injury or damage to property)”.
- (5) In regulation 8 (vesting of property etc. of relinquishing authorities)—
- (a) in paragraph (3A), insert at the beginning “Subject to paragraph (6) below”; and
- (b) after paragraph (5), add—
- (a) “(6) This paragraph applies where the relinquishing authority and the acquiring authority in relation to a transferred area are unable to make an agreement under regulation 5(5) in respect of—
- (i) any HRA dwelling situated in the transferred area,
- (ii) any HRA property exclusively enjoyed or used in connection with such an HRA dwelling, or
- (iii) any rights or liabilities exclusively in respect of any such dwelling or other property including in the case of property which is land, rights or liabilities in respect of a contract for the provision of services on, or delivery of goods to, the land.
- (b) Sub-paragraph (a)(iii) above shall not apply to any liability of a former tenant or licensee of the relinquishing authority to pay rent or other sums in respect of any HRA dwelling or other HRA property.
- (c) Any dwelling, other property and rights or liabilities specified in sub-paragraph (a) and not excluded by sub-paragraph (b) shall, on the reorganisation date, vest in the acquiring authority and shall not be specified for the purposes of paragraph (4) in a notice under paragraph (3A) above..”
- (6) In regulation 19 (disputes), in paragraph (2)(a), for “regulation 6(8)” substitute “regulation 6(5A) or (8)”.
- (7) In the Schedule (transitional payments)—
- (a) in paragraph 1—
- (i) in sub-paragraph (1), before the definition of “the participant authority”, insert—

““final Housing Revenue Account” means the Housing Revenue Account of the relevant authority for the final year;”

(ii) in sub-paragraph (2)(e), for “agreement determined by the designated authority; and” substitute—

“agreement—

(i) except for an item which relates to rent and service charge arrears, as is determined by the designated authority, and

(ii) in the case of an item which relates to rent and service charge arrears, as is determined by deducting from the arrears an amount calculated in accordance with the Table below; and; and”

(iii) at the end, add—

“(5) Any reference to an amount in paragraphs 2 to 5 shall exclude any amounts for which separate provision is made by their inclusion in the calculation of Z in paragraph 6A.

Table

RENT AND SERVICE CHARGE ARREARS

Arrears of tenants or licensees of the authority at the date of transfer: weeks overdue		Deduction from the amount of the arrears as a percentage
<i>Exceeding</i>	<i>Not Exceeding</i>	
—	4	0
4	13	10
13	26	25
26	39	50
39	52	75
52	—	95”.

(b) In paragraph 6—

(i) for the formula substitute—

$$(N + P + Z) - Q$$

(ii) omit “and” after the definition of P; and

(iii) add after the definition of ‘Q’—

“and

Z is the amount calculated in accordance with paragraph 6A.”

(c) after paragraph 6, insert—

“(6A) The amount of Z shall be calculated in accordance with the formula—

$$(HA + HJ - HL - HM) + \frac{(HC \times Hd)}{(HD)}$$

where—

HA is the appropriate amount of so much of the closing balance of the final Housing Revenue Account as is attributable to amounts set aside—

- (i) in connection with any HRA property which has been transferred to the participant authority; or
- (ii) for the purpose of meeting any liabilities which have been so transferred;

HJ is the aggregate of—

- (i) the book value of so much of the item in the final accounts which relates to debts owed by the relevant authority in connection with HRA property as is attributable to such debts the liability for which has been transferred to the participant authority; and
- (ii) so much of the item in those accounts relating to receipts in advance in connection with HRA property as, in the designated authority's opinion, is attributable to the participant authority;

HL is the amount which is the aggregate of—

- (i) the appropriate value of so much of the item in the final accounts which relates to stocks held in connection with HRA property which has been transferred to the participant authority; and
- (ii) so much of the item in those accounts relating to payments in advance in connection with HRA property as, in the designated authority's opinion, is attributable to the participant authority;

HM is the aggregate of the appropriate value of so much of the items in the final accounts which relate to rent and service charge arrears in connection with HRA property and other debts in connection with that property owed to the relevant authority as is attributable to such arrears and debts the right to which has been transferred to the participant authority;

HC is the difference between the closing balance of the final Housing Revenue Account and the aggregate either—

- (i) where the designated authority is a successor authority to an abolished authority, of—
 - (a) the aggregate of the amounts found in relation to all participant authorities by the formula $(HA + HJ - HL - HM)$ above; and
 - (b) the amount found in relation to the designated authority if the formula $(HA + HJ - HL - HM)$ above had been calculated in respect of the property, rights and liabilities transferred to the designated authority; or
- (ii) where the designated authority is the relinquishing authority in relation to a transferred area, of—
 - (a) the aggregate of the amounts found by the formula $(HA + HJ - HL - HM)$ above in relation to 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, and
 - (b) the amount found in relation to the designated authority if the formula $(HA + HJ - HL - HM)$ above had been calculated in respect of property, rights and liabilities of that authority which have not been transferred to any other authority;

Hd is the number of HRA dwellings transferred to the participant authority; and

HD is the total number of HRA dwellings of the relevant authority on the final day of the final year.”

Signed by authority of the Secretary of State for the Environment

Department of the Environment
13th February 1996

David Curry
Minister of State,

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

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

2. Most of the amendments make provision for the transfer of dwellings which are accounted for within the Housing Revenue Account (“HRA”) of authorities, other property accounted for in the same account, and rights and liabilities in respect of such dwellings and other property.

3. Regulation 5 of the Property Regulations is amended to prevent HRA dwellings being identified as not required by any of the authorities concerned for the exercise of their functions after reorganisation.

4. Regulation 6 is amended to provide that HRA dwellings of abolished authorities which are not vested in a successor by agreement are vested in the successor in whose area they are situated, together with other specified HRA property.

5. Regulation 8 is amended to provide that where a relinquishing and acquiring authority in relation to a transferred area are unable to reach an agreement in respect to HRA dwellings in that transferred area, then those dwellings, together with specified HRA property and specified rights and liabilities, vest in the acquiring authority.

6. The Schedule to the Property Regulations, which relates to transitional payments, is amended by the inclusion of a separate calculation relating to specified amounts included in the HRA or connected to it.

7. In addition, regulation 6 of the Property Regulations is amended to exclude from rights and liabilities vesting in the Residuary Body certain rights and liabilities relating to claims for personal injury or damage to property.

8. There are other minor and drafting amendments.