
STATUTORY INSTRUMENTS

1996 No. 682

**The Local Government (Transitional
Financial Provisions) (Scotland) Order 1996**

Citation and commencement

1. This Order may be cited as the Local Government (Transitional Financial Provisions) (Scotland) Order 1996 and shall come into force on 1st April 1996.

Interpretation

2. In this Order, except where the context otherwise requires—

“the 1968 Act” means the Social Work (Scotland) Act 1968⁽¹⁾;

“the 1973 Act” means the Local Government (Scotland) Act 1973⁽²⁾;

“the 1992 Act” means the Local Government Finance Act 1992⁽³⁾;

“the 1994 Act” means the Local Government etc. (Scotland) Act 1994;

“accounting authority” means—

(a) in relation to a disaggregating authority, the council specified in column 2 of Schedule 1 to this Order opposite the name of the disaggregating authority in question (as specified in column 1 of that Schedule); and

(b) in relation to any other demitting authority, their successor authority;

“the Administration” shall have the same meaning as in section 128(1) of the 1994 Act;

“council” means a council constituted under section 2 of the 1994 Act;

“demitting authority” means an authority specified in column 1 of either Schedule 1 or Schedule 2 to this Order;

“disaggregating authority” means an authority specified in column 1 of Schedule 1 to this Order;

“functions” includes powers and duties;

“housing revenue account” means an account required to be kept under section 203 of the Housing (Scotland) Act 1987⁽⁴⁾;

“joint board” shall have the same meaning as in section 235(1) of the 1973 Act;

“the Principal Reporter” shall have the same meaning as in section 127(1) of the 1994 Act;

“reporter” means a reporter appointed under section 36(1) of the 1968 Act⁽⁵⁾;

“successor authority” means—

(1) 1968 c. 49.

(2) 1973 c. 65.

(3) 1992 c. 14.

(4) 1987 c. 26.

(5) Section 36(1) was amended by the 1973 Act, Schedule 29 and is repealed (with effect from 1st April 1996) by virtue of the 1994 Act, Schedule 14, and [S.I. 1996/323](#).

- (a) in relation to a disaggregating authority, a council any part of the area of which is within the area of the disaggregating authority in question; and
- (b) in relation to a demitting authority specified in column 1 of Schedule 2 to this Order, the authority specified in column 2 of that Schedule opposite the name of the demitting authority in question;

“the transfer date” means 1st April 1996.

Closure of accounts, etc.

3.—(1) Subject to paragraph (2) below, each accounting authority and their officers shall, in relation to the accounts and reports for any period ending before the transfer date of each demitting authority for which that authority is the accounting authority, discharge—

- (a) any functions under—
 - (i) sections 96 to 104 of the 1973 Act;
 - (ii) the Local Authority Accounts (Scotland) Regulations 1985⁽⁶⁾;
 - (iii) sections 5 and 6 of the Local Government Act 1992⁽⁷⁾;
 - (iv) paragraphs 24 and 25 of Schedule 11 to the 1992 Act;
 - (v) sections 10 to 14 and 18 of the Local Government, Planning and Land Act 1980⁽⁸⁾, or under instruments made by virtue of those sections; or
 - (vi) sections 9 to 12 of the Local Government Act 1988⁽⁹⁾, or under instruments made by virtue of those sections,
 which would have fallen to be discharged on or after that date by that demitting authority or any of their officers; and
- (b) any such functions which fell to be so discharged before that date but which have not been discharged.

(2) In relation to the discharge of functions provided for in paragraph (1)(a)(ii) above, the Regulations referred to in that provision shall have effect with the substitution, in regulation 4, of “31st October” for “31st August”.

(3) As respects anything falling to be done on or after the transfer date in relation to the accounts referred to in paragraph (1) above, the provisions referred to in that paragraph shall have effect as if these accounts were the accounts of the accounting authority, but—

- (a) the documents to which an auditor has the right of access under subsection (1) of section 100 of the 1973 Act⁽¹⁰⁾ shall include any documents (including any records of information) relating to the demitting authority in question which are in possession of any council or joint board;
- (b) the persons who may be required to give information under that subsection shall include any person who was an officer of the authority at any time during the period to which the accounts relate; and
- (c) the references in subsections (2)(a) and (3) of section 101 of the 1973 Act to any officer of the authority shall be treated as if they were references to any person who was an officer of the authority at any time during the period to which the accounts relate.

⁽⁶⁾ S.I. 1985/267.

⁽⁷⁾ 1992 c. 19.

⁽⁸⁾ 1980 c. 65; section 13 was amended by the Local Government Act 1992, Schedule 1, paragraph 3 and Schedule 4.

⁽⁹⁾ 1988 c. 9; sections 9 to 12 apply in modified form by virtue of the Local Government (Exemption from Competition) (Scotland) Order 1995 (S.I. 1995/678).

⁽¹⁰⁾ Section 100(1) was amended by the National Health Service and Community Care Act 1990 (c. 19), Schedule 7, paragraph 7(2).

Publication of information as to standards of performance

4. Each accounting authority shall, in relation to information as to standards of performance required to be published by virtue of directions made under section 1 of the Local Government Act 1992, publish such information as would have fallen to be published on or after the transfer date by each demitting authority for which they are the accounting authority.

Access to documents and information

5.—(1) An accounting authority—

- (a) shall have a right of access at all reasonable times to all documents which—
 - (i) are in the possession, or under the control of, a council or joint board; and
 - (ii) appear to the accounting authority to be needed for the purpose of discharging functions under article 3 or 4 above; and
- (b) may require—
 - (i) any such person as is mentioned in article 3(3)(b) above; or
 - (ii) any person who is or has been an officer or member of any council or joint board, to give to the accounting authority any such information as they think necessary for that purpose.

(2) It shall be the duty of every council or joint board to take such steps on or after the transfer date as may be reasonably required of them by an accounting authority to enable the accounts of a demitting authority to be closed, and a successor authority of a disaggregating authority shall be entitled to receive from the accounting authority of that disaggregating authority payment of the reasonable costs incurred in complying with their duty under this paragraph.

(3) Where a document includes any record of information and that record is not in legible form, the rights conferred by paragraph (1) and article 3(3) above include the right to require the information to be made available in legible form for inspection and copying and to require copies of it in that form to be delivered.

Non-domestic rating contributions

6.—(1) In relation to each demitting authority which is a regional council, that authority's accounting authority shall, as regards the financial year which commenced on 1st April 1995, discharge—

- (a) any functions under paragraph 11 of Schedule 12 to the 1992 Act⁽¹¹⁾ which would have fallen to be discharged on or after the transfer date by that demitting authority;
- (b) any such functions which fell to be so discharged before that date but which have not been discharged.

(2) The functions referred to in paragraph (1) above shall include the making and receipt of payments under paragraph 11 of Schedule 12 to the 1992 Act.

Agreements between authorities

7. The operation of articles 8, 10(2), 12(1), 13, 14, 16(2), 17, 19(1), 20 and 21 below is subject to any agreement to the contrary entered into in writing by two or more councils, but any such agreement in respect of a matter relating to a disaggregating authority shall require to be entered into by all the successor authorities of that authority.

⁽¹¹⁾ Paragraph 11 was amended by the 1994 Act, Schedule 13, paragraph 176(19).

Common good

8. Any credit balance on the accounts of the common good of a district council immediately before the transfer date shall be transferred on that date to the council within the area of which was situated the burgh of whose common good those accounts formed part on 15th May 1975.

Urban programme grant

9.—(1) Subject to paragraph (2) below, where a regional or district council has immediately before the transfer date the right to payment of grant under section 1 of the Local Government Grants (Social Need) Act 1969(12), that right shall transfer on that date to the council within the area of which is situated the urban area by reference to which the grant is payable.

(2) Where an urban area such as is mentioned in paragraph (1) above is situated in the area of more than one council, those councils may agree as to which one of them is entitled to payment of the relevant grant and, in the absence of such agreement, that grant shall be payable to the council within the area of which the largest part of the urban area in question is situated.

European Structural Fund grant

10.—(1) Subject to paragraph (2) below, where a regional or district council has immediately before the transfer date the right to payment of grant from a European Structural Fund, that right shall transfer on that date to the council within the area of which is situated the project in respect of which the grant is payable.

(2) Where a project such as is mentioned in paragraph (1) above is situated in the area of more than one council, the relevant grant shall be payable to those councils in such proportions as to the Secretary of State seem reasonable.

Transfer to the Administration and the Principal Reporter

11.—(1) This article is subject to article 19(2) below.

(2) Any right, liability or obligation to which a regional or islands council are entitled or subject immediately before the transfer date wholly for the purposes of—

- (a) their functions under section 34(3) of the 1968 Act(13); or
- (b) providing accommodation or facilities for, or otherwise facilitating or supporting the performance of the functions of, reporters or staff provided in pursuance of section 36(6) of the 1968 Act(14),

shall transfer on that date to the Administration.

(3) Without prejudice to the generality of paragraph (2) above, the liabilities and obligations transferred by that paragraph shall include liabilities and obligations in respect of such borrowing from the Public Works Loan Commissioners as is attributable to the matters referred to in subparagraphs (a) and (b) of that paragraph.

(4) Any right, liability or obligation to which a reporter is entitled or subject immediately before the transfer date shall transfer on that date to the Principal Reporter.

Bank accounts

12.—(1) Subject to article 19(2) below, any bank account standing in the name of a demitting authority immediately before the transfer date shall be transferred on that date into the name of that

(12) 1969 c. 2; there are amendments to section 1 which are not relevant for the purposes of this Order.

(13) Section 34(3) is repealed (with effect from 1st April 1996) by virtue of the 1994 Act, Schedule 14 and S.I. 1996/323.

(14) Section 36(6) is repealed (with effect from 1st April 1996) by virtue of the 1994 Act, Schedule 14 and S.I. 1996/323.

authority's accounting authority, and any balance on such an account at the time of transfer shall accordingly be a debt due to or by that accounting authority.

(2) Any payment initiated, whether by cheque or otherwise, by or to a demitting authority may be debited or credited to an account transferred into the name of that authority's accounting authority under paragraph (1) above.

Property charges, taxes and rates

13.—(1) Subject to articles 6 above and 15 and 19(2) below and to paragraph (3) below, all rights, liabilities and obligations to which a regional council are entitled or subject immediately before the transfer date wholly by virtue of their functions as the authority responsible for levying—

- (a) council tax;
- (b) council water charge;
- (c) charges under section 49 of the Water (Scotland) Act 1980(15);
- (d) the non-domestic rate;
- (e) the non-domestic water rate;
- (f) the non-domestic sewerage rate;

shall transfer on that date in accordance with paragraph (2) below.

(2) Any right, liability or obligation referred to in paragraph (1) above shall transfer to the council within the area of which is or was situated the property in respect of which the relevant tax, charge or rate is or was payable.

(3) Paragraph (1) above shall not apply to any right of a regional council to receive payment of a grant under section 69 of, or paragraph 34 of Schedule 32 to, the Local Government, Planning and Land Act 1980(16).

Community charges

14.—(1) Subject to articles 15 and 19(2) below, all rights, liabilities and obligations to which a regional council are entitled or subject immediately before the transfer date wholly by virtue of their function as the authority responsible for levying community charges and community water charges (within the meaning of the Abolition of Domestic Rates Etc. (Scotland) Act 1987(17)) shall transfer on that date in accordance with paragraph (2) below.

(2) Any right, liability or obligation referred to in paragraph (1) above shall transfer to the council within the area of which is or was situated the property in respect of which, or by reference to which, the relevant community charge or community water charge is or was payable.

(3) For the purposes of paragraph (2) above, property is property by reference to which community charge or community water charge is or was payable where the liability in respect of the relevant charge arose by virtue of the liable person being solely or mainly resident in that property.

Housing benefit finance and council tax benefit subsidy

15. In relation to any housing benefit, council tax benefit or community charge benefit granted or allowed by a regional or district council before the transfer date, for the purposes of—

(15) 1980 c. 45; section 49 was substituted by the 1992 Act, Schedule 11, paragraph 34 and is repealed (with effect from 1st April 1996) by virtue of the 1994 Act, Schedule 14 and S.I. 1996/323.

(16) 1980 c. 65; section 69 was amended by S.I. 1990/776 and the 1994 Act, section 158; paragraph 34 of Schedule 32 was amended by the 1994 Act, section 159(3).

(17) 1987 c. 47.

- (a) the payment of subsidy under section 135 or 140 of the Social Security Administration Act 1992⁽¹⁸⁾;
- (b) any claims or other matters associated with such subsidy under sections 137 and 140(7) of that Act; and
- (c) any regulations or order made under those sections,

that council's accounting authority shall be deemed to be the authority referred to in those sections or in any regulations or order made thereunder.

Housing revenue accounts

16.—(1) Where a district council have only one successor authority, the opening balance of the housing revenue account of that successor authority on the transfer date shall be equal to the closing balance of that district council's housing revenue account immediately before that date.

(2) Where a district council have more than one successor authority, the opening balance of the housing revenue account of each successor authority on the transfer date shall be calculated in accordance with the formula—

$$A \times \frac{B}{100}$$

where—

A is the closing balance of the housing revenue account of the district council in question immediately before the transfer date; and

B is the figure specified in column 2 of Schedule 3 to this Order opposite the name of the successor authority in question (as shown in column 1 of that Schedule).

Compensation payments

17.—(1) Subject to article 19(2) below, any liability or obligation to which a regional or district council are subject immediately before the transfer date under—

- (a) the Local Government (Compensation for Premature Retirement) (Scotland) Regulations 1979⁽¹⁹⁾; or
- (b) the Teachers' (Compensation for Premature Retirement) (Scotland) Regulations 1980⁽²⁰⁾,

shall transfer on that date to that council's accounting authority.

(2) Where an accounting authority of a regional or district council is not an authority specified in column 2 of Schedule 3A to the Local Government Superannuation (Scotland) Regulations 1987⁽²¹⁾, the authority specified in that column opposite the name of the accounting authority in question (as shown in column 1 of that Schedule) shall discharge the liabilities and obligations of that accounting authority under this article and may recover from them the amount of any payments made in so doing.

Transfer of rights, liabilities and obligations to joint boards

18.—(1) This article is subject to article 19(2) below.

⁽¹⁸⁾ 1992 c. 5; section 140 was amended by the 1992 Act, Schedule 9, paragraph 21, and by the 1994 Act, Schedule 13, paragraph 175(3).

⁽¹⁹⁾ S.I. 1979/785, to which there are amendments not relevant to this Order.

⁽²⁰⁾ S.I. 1980/1254, to which there are amendments not relevant to this Order.

⁽²¹⁾ S.I. 1987/1850; relevant amending instrument is S.I. 1995/3294.

(2) Any right, liability or obligation to which a disaggregating authority are entitled or subject immediately before the transfer date wholly by virtue of their functions as a police authority shall on that date transfer to the joint board constituted under section 21B of the Police (Scotland) Act 1967⁽²²⁾ in respect of the area of that disaggregating authority.

(3) Any right, liability or obligation to which a disaggregating authority are entitled or subject immediately before the transfer date wholly by virtue of their functions as a fire authority shall on that date transfer to the joint board constituted under section 147 of the 1973 Act⁽²³⁾ in respect of the area of that disaggregating authority.

(4) Any right, liability or obligation to which a disaggregating authority (other than Strathclyde Regional Council) are entitled or subject immediately before the transfer date wholly by virtue of their functions as a valuation authority shall on that date transfer to the joint board constituted under the Valuation Joint Boards (Scotland) Order 1995⁽²⁴⁾ in respect of the area of that disaggregating authority.

Residual rights, liabilities and obligations

19.—(1) Subject to paragraph (2) below, any right, liability or obligation to which a demitting authority are entitled or subject immediately before the transfer date shall, if not otherwise transferred by this Order, transfer on that date to that authority’s accounting authority.

(2) Nothing in paragraph (1) or articles 10, 11, 12(1), 13, 14, 17 or 18 above shall operate so as to transfer a right, liability or obligation of a demitting authority which is transferred under or by virtue of—

- (a) section 9, 16, 17 or 40 of the 1994 Act;
- (b) section 91 of, or Schedule 11 to, the 1994 Act, or any scheme, agreement or instrument made under these provisions before the transfer date;
- (c) a scheme made under section 22 of the Environment Act 1995⁽²⁵⁾;
- (d) the Local Authorities (Property Transfer) (Scotland) Order 1995⁽²⁶⁾;
- (e) regulation T3 of the Local Government (Superannuation) (Scotland) Regulations 1987⁽²⁷⁾; or
- (f) the Roads (Transitional Powers) (Scotland) Order 1995⁽²⁸⁾.

Duty to account

20.—(1) This article applies in the case of a council acting as the accounting authority of a disaggregating authority.

(2) The accounting authority shall provide to each other successor authority of the demitting authority in question accounts of all payments and receipts attributable to their duties as accounting authority and made or received under—

- (a) article 5(2), 6, 12(1), 15, 17 or 19(1) above; or
- (b) regulation 4 of the Accounts Commission (Scotland) Regulations 1996⁽²⁹⁾.

⁽²²⁾ 1967 c. 77; section 21B was inserted by the 1994 Act, section 34.

⁽²³⁾ Section 147 was substituted by the 1994 Act, section 36.

⁽²⁴⁾ S.I. 1995/2589.

⁽²⁵⁾ 1995 c. 25.

⁽²⁶⁾ S.I. 1995/2499 as amended by S.I. 1996/578.

⁽²⁷⁾ S.I. 1987/1850; relevant amending instrument is S.I. 1995/3294.

⁽²⁸⁾ S.I. 1995/1476, as amended by S.I. 1995/3328.

⁽²⁹⁾ S.I. 1996/681.

(3) The accounts referred to in paragraph (2) above shall be drawn up in respect of each period of 6 months subsequent to 31st March 1996 and shall be provided as soon as possible after the end of the period to which they relate.

(4) There shall be included in the accounts for any period the reasonable costs incurred by the accounting authority during that period in complying with the requirements of articles 3, 4, 6 and 15 above.

Payments between authorities

21.—(1) Where the accounts for any period under article 20 above show—

- (a) a credit balance, the accounting authority shall make payments to the other successor authorities of the demitting authority in accordance with paragraph (2) below;
- (b) a debit balance, the other successor authorities shall make payments to the accounting authority in accordance with that paragraph.

(2) Payments under paragraph (1) above shall be calculated in accordance with the formula—

$$E \times \frac{F}{G}$$

where—

E is the credit or debit balance in question;

F is the Band D equivalent figure for the successor authority making the payment to, or receiving the payment from, the accounting authority; and

G is the total of the Band D equivalent figures for all the successor authorities of the demitting authority in question.

(3) For the purposes of paragraph (2) above, the Band D equivalent figure for an authority shall, subject to paragraph (5) below, be calculated—

- (a) by reference to the valuation list maintained for that authority's area under section 84 of the 1992 Act; and
- (b) by working out, in light of the terms of subsection (1) of section 74 of that Act, the number of dwellings in valuation band D (as referred to in subsection (2) of that section) which would produce the same amount of council tax as is payable in respect of the dwellings actually shown on that list on the relevant date (ignoring exemptions and discounts under sections 72 and 79 of that Act).

(4) In paragraph (3) above, “the relevant date” means 1st April in the financial year within which there falls the period to which the payment in question relates.

(5) Where only part of the area of a successor authority (“the relevant part”) is within the area of the demitting authority in question, the calculation of that successor authority's Band D equivalent figure shall be carried out as if the valuation list referred to in paragraph (3)(a) above showed only dwellings situated in the relevant part.

Competitive tendering

22. Nothing in this Order shall prejudice the application of subsections (3) to (6) of section 181 of the 1994 Act insofar as they apply for the purposes of determining on which authority the Secretary of State may on or after the transfer date serve a notice or give a direction under—

- (a) section 19A or 19B of the Local Government, Planning and Land Act 1980(30); or

(30) Sections 19A and 19B were inserted by the Local Government Act 1988 (c. 9), Schedule 6, paragraph 9, and were amended by the Local Government Act 1992 (c. 19), Schedule 1, paragraphs 6 and 7 and Schedule 4.

(b) section 13 or 14 of the Local Government Act 1988(31).

St Andrew's House,
Edinburgh
7th March 1996

George Kynoch
Parliamentary Under Secretary of State, Scottish
Office

(31) 1988 c. 9; sections 13 and 14 were amended by the Local Government Act 1992, Schedule 1, paragraphs 13 and 14.