
STATUTORY INSTRUMENTS

1998 No. 2859

LOCAL GOVERNMENT, ENGLAND AND WALES
WALES

The Residuary Body for Wales (Winding Up) Order 1998

Made - - - - *18th November 1998*
Laid before Parliament *23rd November 1998*
Coming into force - - *14th December 1998*

Whereas the Residuary Body for Wales, acting pursuant to paragraph 18(5) of Schedule 13 to the Local Government (Wales) Act 1994⁽¹⁾, has submitted a scheme to the Secretary of State for Wales 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 with modifications⁽²⁾:

Now, therefore, the Secretary of State for Wales, in exercise of the powers conferred on him by sections 54(1) and (2)(c) and 63(5) of and paragraph 18(7) of Schedule 13 to that Act, and of all other powers enabling him in that behalf, hereby makes the following Order:—

PART I
CITATION ETC.

Citation and commencement

1. This Order may be cited as the Residuary Body for Wales (Winding Up) Order 1998 and shall come into force on 14th December 1998.

Interpretation and general provisions

2.—(1) In this Order—

“the 1994 Act” means the Local Government (Wales) Act 1994;

“the appropriate proportion” means, in relation to a Welsh council, the proportion specified opposite the name of that council in column (2) of Schedule 2 to this Order;

(1) 1994 c. 19. Paragraph 18(5) was substituted by section 150(4) of the Government of Wales Act 1998 (c. 38).

(2) For the power to make modifications, see paragraph 18(7) of Schedule 13 to the said Act of 1994 which was substituted by section 150(4) of the said Act of 1998.

“Caerphilly” means Caerphilly County Borough Council;

“contract for banking services” means a contract for the provision of services for the Residuary Body by an authorised institution; and “authorised institution” shall be construed in accordance with the Banking Act 1987(3);

“contract of insurance” shall be construed in accordance with sections 95 and 96 of the Insurance Companies Act 1982(4);

“document” includes material in whatever form or medium which conveys or is capable of conveying information;

“expenditure”, in relation to Caerphilly, includes administrative expenses properly incurred by them;

“property”, except in article 6, does not include cash or the balance of any fund or account;

“the Residuary Body” means the Residuary Body for Wales;

“the transfer date” means 15th December 1998;

“Welsh council” means the council of a county or, as the case may be, county borough in Wales.

(2) Any reference in this Order to any rights and liabilities of the Residuary Body includes a reference to rights or liabilities acquired or incurred by any predecessor in title of that Body.

(3) Where land or other property or any rights or liabilities of the Residuary Body are vested, by virtue of this Order, in a Welsh council, anything done by or in relation to the Residuary Body in connection with such land or other property or rights or liabilities shall be treated as if it had been done by or in relation to that council.

PART II

SPECIFIC TRANSFERS OF LAND ETC.

Land

3.—(1) On the transfer date, any land which is described in column (1) of Part I of Schedule 1 to this Order and which is then vested in the Residuary Body shall:—

- (a) in the case of the land described in paragraph 1 of the said Part I, vest in Carmarthenshire County Council; and
- (b) in the case of the land described in paragraphs 2 and 3 of the said Part I, vest jointly in those Welsh councils (“the trustee councils”) described in column (2) opposite the land in question to be held by those trustee councils for and on behalf of the appropriate Welsh councils (“the beneficiary councils”) described in column (3) opposite in the proportion specified for each such council in column (4).

(2) Where the vesting of any land is transferred under paragraph (1), there shall be transferred with that land—

- (a) any property in or on that land being property held by the Residuary Body;
- (b) any rights or liabilities of the Residuary Body in respect of that land or property;
- (c) any rights or liabilities of the Residuary Body in relation to a contract for the provision of services for, or the delivery of goods to, that Body (including any rights and liabilities in relation to such contracts vested in that Body by virtue of article 22(2)(a) of the Local

(3) 1987 c. 22.

(4) 1982 c. 50.

Government Reorganisation (Wales) (Property etc.) Order 1996⁽⁵⁾), where the contract relates exclusively to the said land or property; and

(d) any documents of the Residuary Body relating exclusively to that land or the property, rights and liabilities relating thereto referred to in sub paragraphs (a) to (c).

(3) In paragraph (2),—

(a) the expression “property in or on that land” shall include vehicles and moveable property of the Residuary Body which are normally kept in or on such land when not in use; and

(b) “contract” includes any enforceable undertaking and a contract of insurance but does not include a contract for banking services.

Other Specific Transfers

4.—(1) On the transfer date, all the interest of the Residuary Body under an agreement between it and the Land Authority for Wales and dated 30th September 1998 in relation to the land described in column (1) of Part II of Schedule 1 to this Order and entitling the Residuary Body to receive a proportion of any increased development value on a subsequent disposal of that land, shall vest jointly in the Welsh councils described in column (2) of that Part for the benefit of each of those councils in the proportion specified for each such council in column (3) of that Part.

(2) On the transfer date, all rights and liabilities of the Residuary Body in proceedings 1997 ORB. No. 126 entered in the Official Referees' Court Registry of the High Court of Justice shall vest jointly in the Council of the City and County of Cardiff and The Vale of Glamorgan County Borough Council.

Transfer of Monies

(a) (a) Immediately before the transfer date, the Residuary Body shall set aside from its revenue balances the sum of £25,000; and

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

PART III

WINDING UP AND RESIDUAL MATTERS

Winding Up, Annual Report and Closure of Accounts

6.—(1) At the end of 31st December 1998 any remaining functions, property, rights and liabilities of the Residuary Body shall transfer to and vest in Caerphilly, and the Residuary Body shall be wound up.

(2) Without prejudice to the generality of paragraph (1), any function under—

(a) paragraph 10 of Schedule 13 (reports and information) to the 1994 Act; or

(b) paragraphs 15 or 16 of the said Schedule 13 (accounts and audit)⁽⁶⁾; or

(c) the Audit Commission Act 1998

which would, but for this Order, have fallen to be discharged on or after 1st January 1999 by the Residuary Body shall be discharged by Caerphilly.

⁽⁵⁾ S.I.1996/532 to which there is an amendment not relevant to this Order.

⁽⁶⁾ Paragraph 16 of Schedule 13 was amended by Schedule 3, paragraph 27 to the Audit Commission Act 1998 (c. 18).

Apportionment

7.—(1) All money transferred to, or sums realised by, Caerphilly, by or in pursuance of the transfer by this Order (other than by virtue of articles 3 or 4(1)) of any property or rights, shall after deduction of any relevant expenditure be apportioned among the Welsh councils in the appropriate proportions; and Caerphilly shall, not later than the end of the financial year in which such money or sums are received, pay the appropriate proportion to each of the other Welsh councils and shall retain the balance.

(2) If in any financial year the aggregate in that year of the sums referred to in paragraph (1) is insufficient to meet any relevant expenditure for that year that excess expenditure shall be apportioned among the Welsh councils in the appropriate portions; and the appropriate proportion shall be recoverable by Caerphilly from each of the other Welsh 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.

Co-operation etc.

8.—(1) Each other Welsh council shall provide Caerphilly with such assistance and information as Caerphilly may reasonably require for the purposes of discharging any of its functions under this Part of this Order.

(2) In relation to any documents that are vested in Caerphilly by virtue of article 6, each other Welsh council (acting through any authorised officer or agent) shall, upon giving reasonable notice to Caerphilly, be entitled during ordinary office hours to such rights of inspection of such documents as that other council may reasonably require.

(3) The right conferred by paragraph (2) includes the right to take or to be supplied with copies of such documents or any part of them including the right to require any document which is not in a legible form to be made available in legible form for the purposes of inspection or copying or being supplied with copies.

PART IV MISCELLANEOUS

Continuity of exercise of functions

9.—(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 Caerphilly shall so far as is required for continuing its effect after the 31st December 1998 have effect as if done by or in relation to Caerphilly.

(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 any notice; to the entering into of any agreement or other instrument; and to the bringing of any action or proceeding.

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

Disputes

10. In the event of any dispute between any of the Welsh councils as to the amount of any expenditure recoverable by Caerphilly pursuant to Part III of this Order, or as to the amount of money payable to or by any Welsh council under article 7, or as to any request from Caerphilly or, as the case may be, any other Welsh council for assistance, information or rights of inspection under article

8, the matter shall be determined by an arbitrator appointed by the Secretary of State for Wales; and Part I of the Arbitration Act 1996(7), shall have effect accordingly in relation to such arbitration.

Signed by authority of the Secretary of State for Wales

18th November 1998

Jon Owen Jones
Parliamentary Under Secretary of State, Welsh
Office

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SCHEDULE 1

Articles 3 and 4

PART I

<i>(1)</i> <i>Description of Land</i>	<i>(2)</i> <i>Trustee Welsh Councils</i>	<i>(3)</i> <i>Beneficiary Welsh Councils</i>	<i>(4)</i> <i>Specified Proportions (%)</i>
(1) 3 and 5 Goring Road, Llanelli	—	—	—
(2) Glamorgan Councils Staff Club, 17 Westgate St., Cardiff	Bridgend County Borough Council, Caerphilly County Borough Council, Merthyr Tydfil County Borough Council and Rhondda, Cynon, Taff County Borough Council	a. Bridgend County Borough Council b. Caerphilly County Borough Council c. Merthyr Tydfil County Borough Council d. Rhondda, Cynon, Taff County Borough Council e. The Council of the City and County of Cardiff f. The Vale of Glamorgan County Borough Council	a. 24.377 b. 18.712 c. 10.748 d. 44.154 e. 1.162 f. 0.847
(3) Phase iv, Shire Hall, Mold	Flintshire County Council, Denbighshire County Council, Wrexham County Borough Council and Conwy County Borough Council	a. Flintshire County Council b. Denbighshire County Council c. Wrexham County Borough Council d. Conwy County Borough Council	a. 34.552 b. 22.126 c. 29.284 d. 13.635

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<i>(1)</i> <i>Description of Land</i>	<i>(2)</i> <i>Trustee Welsh Councils</i>	<i>(3)</i> <i>Beneficiary Welsh Councils</i>	<i>(4)</i> <i>Specified Proportions (%)</i>
		e. Powys County Council	e. 0.403

PART II

<i>(1)</i> <i>Description of Land</i>	<i>(2)</i> <i>Welsh Councils</i>	<i>(3)</i> <i>Specified Proportions (%)</i>
(1) Offices known as Greyfriars House and Greyfriars Road Offices, Greyfriars Road, Cardiff and the adjoining land and car park to the east, off Park Place, Cardiff	a. Bridgend County Borough Council	a. 24.377
	b. Caerphilly County Borough Council	b. 18.712
	c. Merthyr Tydfil County	c. 10.748
	d. Rhondda, Cynon, Taff County Borough Council	d. 44.154
	e. The Council of the City and County of Cardiff	e. 1.162
	f. The Vale of Glamorgan County Borough Council	f. 0.847

SCHEDULE 2

Article 7

<i>(1)</i> <i>Welsh Councils</i>	<i>(2)</i> <i>Appropriate Proportions (%)</i>
(1) Blaenau Gwent	(1) 1.2898
(2) Bridgend	(2) 5.8352
(3) Caerphilly	(3) 6.5828
(4) Cardiff	(4) 6.8588
(5) Carmarthenshire	(5) 7.5733
(6) Ceredigion	(6) 3.3185
(7) Conwy	(7) 5.4840
(8) Denbighshire	(8) 4.3981
(9) Flintshire	(9) 6.6366

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<i>(1)</i> <i>Welsh Councils</i>	<i>(2)</i> <i>Appropriate Proportions (%)</i>
(10) Gwynedd	(10) 5.6274
(11) Isle of Anglesey	(11) 3.3831
(12) Merthyr Tydfil	(12) 2.1820
(13) Monmouthshire	(13) 2.2273
(14) Neath Port Talbot	(14) 2.8283
(15) Newport	(15) 2.9678
(16) Pembrokeshire	(16) 5.4715
(17) Powys	(17) 3.0972
(18) Rhondda, Cynon, Taff	(18) 8.9471
(19) Swansea	(19) 5.0349
(20) Torfaen	(20) 1.8813
(21) The Vale of Glamorgan	(21) 3.0707
(22) Wrexham	(22) 5.3043

EXPLANATORY NOTE

(This note is not part of the Order)

The Order provides for the winding-up of the Residuary Body for Wales (“the Residuary Body”) in pursuance of a scheme submitted by that Body to the Secretary of State for Wales under para 18 of Schedule 13 to the Local Government (Wales) Act 1994. In particular, the Order provides for the distribution of the remaining functions and property of the Residuary Body among various county and county borough councils in Wales (“Welsh councils”).

The modifications made to the Residuary Body’s scheme are in respect of the vesting of the land described at paras 2 and 3 of Part I of Schedule 1 to the Order in the 4 successor councils with the largest beneficial interests in those properties rather than in a single “lead” authority.

Article 3 and Schedule 1, Part I provide for the transfer of the remaining land (and associated rights and liabilities) vested in the Residuary Body to specified successor Welsh councils.

Article 4 and Schedule 1, Part II provide for the transfer of certain other specific rights and liabilities of the Residuary Body to specified successor Welsh councils.

Article 5 provides for the transfer of £25,000 to Caerphilly County Borough Council to enable it to meet expected expenditure by it as the council with the function of winding up the outstanding affairs of the Residuary Body.

Article 6 provides for the transfer, at the end of December 1998 of the remaining functions, property rights and liabilities of the Residuary Body (including closure of its accounts and preparation of a final annual report) to Caerphilly CBC and for the winding-up of the Residuary Body.

Article 7 and Schedule 2 provide for apportioning among Welsh councils sums received or paid by Caerphilly CBC in finalising the affairs of the Residuary Body.

Article 8 requires other Welsh councils to provide Caerphilly CBC with assistance to enable it to finalise the affairs of the Residuary Body. It also gives other Welsh councils a right to inspect documents of the Residuary Body that are vested in Caerphilly CBC under article 6.

Article 9 provides for continuity in the exercise of functions.

Article 10 provides for the determination of disputes.