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STATUTORY INSTRUMENTS

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**1973 No. 1861**

**The Local Authorities (England) (Property etc.) Order 1973**

**Title and commencement**

- 1.—(1) This order may be cited as the Local Authorities (England) (Property etc.) Order 1973.
- (2) This order shall come into operation—
- (a) for the purposes of the following provisions, namely:—
- paragraphs (2) to (6) of article 10
  - article 11 in so far as it provides for agreements
  - article 12
  - paragraphs (1) to (3) and (5) of article 19
  - paragraph (3) of article 20
  - paragraphs (5) and (6) of article 23
  - paragraph (1) of article 25
  - articles 21, 22, 26, 27, 37 and 39
  - paragraph 3(b) and (c) of Schedule 2, on 21st December 1973; and
- (b) for all other purposes, on 1st April 1974.

**Territorial extent**

- 2.—(1) Save as expressly provided in this order or in any other order made under section 254 of the Act—
- (a) this order does not extend to the transfer of any matter from an authority whose area is wholly or partly in Wales;
  - (b) article 7(3) and (4) extend only to councils of counties and county boroughs in England;
  - (c) articles 29 and 32, in so far as they refer to property described in (a), (b) or (e) of article 9(1), articles 34(2) and 35 in so far as they deal with matters transferred by the Act, and article 38, extend only to England;
  - (d) article 36(1), (3) and (4) do not extend to any such authority as is described in (a);
  - (e) article 36(2) extends only to committees established in England;
  - (f) article 37 extends only to authorities whose areas are wholly in England.
- (2) This order extends to the transfer of matters from the following authorities, namely—
- The Severn River Authority
- The Lancashire and Western Sea Fisheries Committee.
- (3) Article 36(1) extends to the authorities named in paragraph (2) and to the Chester Port Health Authority.
- (4) Article 36(3) and (4) extend to the authorities named in paragraph (2).

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(5) Article 37 extends to the Severn-Trent Water Authority.

### Exclusion of certain matters

3. Nothing in this order other than the express exceptions in the table in Schedule 2 and the definition in that Schedule of “police matters” applies to—

- (a) property held by the council of any county or county borough for police purposes, including the purposes of section 81 of the Road Traffic Regulation Act 1967;
- (b) property held by the council of any county or any borough having a separate commission of the peace for the purposes of section 25 of the Justices of the Peace Act 1949; or
- (c) the land, buildings and works in Wales of any water undertaking,

or to any liabilities incurred, contracts, deeds, bonds, agreements and other instruments subsisting, notices given, actions and proceedings pending or causes of action or proceeding existing in relation to such matters.

### Interpretation

4.—(1) The Interpretation Act 1889 shall apply for the interpretation of this order as it applies for the interpretation of an Act of Parliament.

(2) In this order—

“the Act” means the Local Government Act 1972;

“buildings”, except in article 22, means buildings not within the meaning of the term “land”;

“corporate land” means corporate land within the meaning of the Local Government Act 1933;

“divided parish” means the parish of Abbots Langley, Altcar, Alwalton, Aston, Birtley, Blagdon, Bold, Brafield-on-the-Green, Burnham, Burrington, Charlwood, Christchurch East, Collingtree, Compton Martin, Corton, Courteenhall, Datchworth, East Harptree, Ecton, Great Houghton, Harraton, Harworth, Heighington, Herringfleet, Horley, Kislingbury, Little Houghton, Loxton, Lydiate, Milton Malsor, Newton Longville, Orton Longueville, Orton Waterville, Overstone, Redbourn, Reedham, Rothersthorpe, St Michael Rural, Shenley Brook End, Shifnal, Slaugham, Sopley, South Biddick, Tattenhoe, Thorpe St Andrew, Ubley, Upton, West Harptree, Wexham, Whaddon, Wootton or Worth;

“historic and ceremonial property” does not include any property held (or under article 19, 20, 22 or 39 deemed to be held) for the purposes of any statutory functions;

“land” includes land covered by water and any interest or right in, to or over land;

“parish authority” means in the case of a parish having a separate parish council that council, and in any other case the parish meeting, or the representative body or the parish trustees, as may be appropriate; the relevant class of authorities, in relation to any authority described in column (1) of the following table, means the class specified in respect thereof in column (2).

**TABLE**

(1)	(2)
A county council	In the case of areas included in metropolitan counties, metropolitan county councils  In the case of other areas, nonmetropolitan county councils

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(1)	(2)
The corporation or council of a borough, or the council of an urban or rural district	In the case of areas included in metropolitan districts, metropolitan district councils  In the case of other areas, nonmetropolitan district councils;

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“Wales” means the area consisting of the counties established by section 20 of the Act (new local government areas in Wales), and “England” does not include any area included in any of those counties; and

“water authority” means an authority established in accordance with section 2 of the Water Act 1973; and any reference to the area of a water authority, without more, means the area of that authority as defined in section 2(2)(b) of or Schedule 1 to that Act.

(3) In this order, unless the context otherwise requires, references to any enactment shall be construed as references to that enactment as amended, extended or applied by or under any other enactment.

(4) Any reference in this order to a numbered article or schedule shall, unless the reference is to an article or schedule of a specified order, be construed as a reference to the article or schedule bearing that number in this order.

(5) Any reference in any article of this order to a numbered paragraph shall, unless the reference is to a paragraph of a specified article, be construed as a reference to the paragraph bearing that number in the first-mentioned article.

### **Other express provision**

5. This order shall have effect subject to the express provision of—
- (a) any other order made (whether before or after this order) under section 254 of the Act;
  - (b) any regulations made under section 7 or 8 of the Superannuation Act 1972, or,
  - (c) section 16, 25 or 54(2) of the National Health Service Reorganisation Act 1973 or any order made under those sections.

### **Ancillary provision in relation to highways**

6. There shall be transferred to and vest in or attach to a county council as the highway authority for any highway—

- (a) the interest of the former highway authority, as such, in the highway, in so far as such interest is not vested in the county council by virtue of section 226 of the Highways Act 1959;
- (b) any land held by the former highway authority, as such, for the purposes of their functions in relation to the highway or which has been acquired by them as highway authority for the highway and not appropriated for any other purpose;
- (c) any equipment on or near the highway belonging to the former highway authority as such, including any road lighting system within the meaning of Part III of the Local Government Act 1966 and any other lighting system belonging to the former highway authority as highway authority for the highway; and
- (d) any traffic sign, on or near the highway, belonging to a county, county borough or county district council and not comprised in (c).

In this article “traffic sign” has the meaning attached to that expression in section 54(1) of the Road Traffic Regulation Act 1967.

### **Particular matters**

7.—(1) Any property described in column (2) of Schedule 1 (or of any extension thereof effected by any further order under section 254 of the Act made before 1st April 1974) of an authority named in column (1) shall by virtue of this order be transferred to and vest in the authority specified in respect of such property in column (3).

(2) The Teesside passenger transport undertaking shall be held by the District Council of Middlesbrough for the joint use and benefit of themselves and the District Councils of Langbaugh and Stockton-on-Tees.

(3) Any liability of the council of any county or county borough to repay money borrowed for the provision of financial assistance in respect of works for water supply or sewerage or sewage disposal shall be transferred to and attach to the water authority for the area in which the works are situated.

Any other liability of the council of a county, county borough or county district to repay money borrowed under any statutory provision for the provision of financial assistance in respect of any works shall be transferred to and attach to the authority who would on and after 1st April 1974 be empowered by that statutory provision to provide such financial assistance in respect of such works. Paragraphs (3) and (4) of article 18 shall apply to the liabilities transferred by this paragraph as they apply to the liabilities transferred by paragraph (2) of that article.

(4) This paragraph applies to the liability of the council of any county or county borough to make contributions to any authority in respect of any scheme under section 2 of the Rural Water Supplies and Sewerage Act 1944.

Any such liability shall cease in respect of any payment falling to be made on or after 1st April 1974. Where any payment falling to be made before 1st April 1974 is in fact made on or after that date it shall be made to the authority specified in column (2) of Part I or II of Schedule 4 in respect of the authority first referred to in this paragraph.

### **Sewers and sewage disposal works**

8.—(1) Nothing in this article applies to any matter provided for in article 7 or in article 11(2) or (3) or 18 in their application to any property or liability transferred by article 7.

(2) Any public sewer (within the meaning of section 20(2) of the Public Health Act 1936 as that provision has effect at the date of the making of this order) which crosses the boundaries of the areas for sewerage and sewage disposal purposes of two or more water authorities, and any other public sewer discharging thereto, shall be transferred to and vest in the water authority within whose area for such purposes is situated the sewage disposal works, or where the sewer does not discharge to sewage disposal works the outfall, to which the first-mentioned sewer discharges.

(3) Any other public sewer or any sewage disposal works vested in a local authority by virtue of the Public Health Act 1936 shall be transferred to and vest in the water authority within whose area for sewerage and sewage disposal purposes the sewer is or the sewage disposal works are situated.

(4) In this article “sewer” includes manholes, ventilating shafts, pumping stations, pumps, pumping mains, storm overflows and associated overflow pipes and outfalls, storm flow balancing installations and any other accessories belonging to the sewer.

### **Transfer of specified classes of property, etc**

9.—(1) Nothing in this article applies to—

- (a) any property held as sole trustee, exclusively for charitable purposes, by an existing local authority for an area outside Greater London, other than the parish council, parish meeting or representative body of a parish (but including the corporation of a borough included in a rural district) transferred by section 210 of the Act;

- (b) any property so held by the parish council, parish meeting or representative body of an existing parish mentioned in paragraph 1 of Part IV of Schedule 1 to the Act or in paragraph (2) of article 3 of the New Parishes Order 1973 transferred by article 9(1) of that order;
- (c) any other property held for the purposes of any charitable trust;
- (d) any property vested in an authority described in column (1) of Part I or II of Schedule 4 transferred to the Secretary of State by section 16, 25 or 54(2) of the National Health Service Reorganisation Act 1973 or any liabilities incurred, contracts, deeds, bonds, agreements and other instruments subsisting, notices given, actions and proceedings pending or causes of action or proceeding existing in relation to such property;
- (e) any property vested in a county council by virtue of section 226 of the Highways Act 1959;
- (f) any matter provided for in article 6, 7 or 8;
- (g) any matter provided for in article 11(1) in so far as it applies to rights ensured by article 23 in its application to any property transferred by article 6, 7 or 8;
- (h) any matter provided for in article 11(2) or (3) in their application to any matter provided for in articles 7 and 8;
- (i) any matter provided for in article 18 in its application to any matter described in the preceding items of this paragraph.

(2) Nothing in paragraphs (4) to (6) of this article applies to matters provided for in paragraphs (2) to (4) of article 18 in their application to any matters provided for in paragraph (3) of this article, and nothing in paragraphs (5) and (6) of this article applies to any matters provided for in paragraphs (3) and (4) of article 18 in their application to any liabilities provided for in paragraph (4) of this article.

(3) All property vested in an authority described in column (2) of the table in Schedule 2 (or of any extension thereof effected by any further order under section 254 of the Act made before 1st April 1974) and within any description of matters specified in respect of such authority in column (3) shall by virtue of this order be transferred to and vest in the authority specified in respect of such description of matters in column (4).

(4) All liabilities attaching to an authority described in the said column (2) and within any description of matters specified in respect of such authority in column (3) shall by virtue of this order be transferred to and attach to the authority specified in respect of such description of matters in column (4).

(5) All contracts, deeds, bonds, agreements and other instruments subsisting in favour of, or against, and all notices in force which were given (or have effect as if they had been given) by, or to, and authority described in the said column (2) and within any description of matters specified in respect of such authority in column (3) shall be of full force and effect in favour of, or against, the authority specified in respect of such description of matters in column (4).

(6) Any action or proceeding or any cause of action or proceeding, pending or existing at 1st April 1974, by, or against, an authority described in the said column (2) and within any description of matters specified in respect of such authority in column (3) shall not be prejudicially affected by reason of the Act or the Water Act 1973, and may be continued, prosecuted and enforced by, or against, the authority specified in respect of such description of matters in column (4).

(7) Save in so far as express provision is made in item No. 13 of the table in Schedule 2, this article does not extend to the historic and ceremonial property other than land and buildings, and in particular to the charters, insignia and plate, of any area.

#### **Provision supplementary to article 9**

**10.—(1)** The provision made in this article applies in the application of article 9.

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(2) Any question as to the functions for the purposes of which any property is held, any liabilities have been incurred, any contract, deed, bond, agreement or other instrument subsists, any notice has been given or any action or proceeding or cause of action or proceeding relates shall, subject to the provision of paragraph (6), be determined by the transferor authority.

(3) Any question whether any property is historic or ceremonial property shall, subject to the provision of paragraph (6), be determined by the transferor authority.

(a) (4) (a) Where any land or any part of any land vested immediately before 1st April 1974 in an authority described in column (2) of the table in Schedule 2 is situated in two or more areas specified in respect of that authority in the said table, the land or the part shall be deemed to be situated in the area so specified in which the greater proportion of it is situated.

(b) Where part of any land vested as aforesaid is situated (or is under (a) deemed to be situated) in an area specified in respect of an authority described in column (2) of the said table, any part of the land situated outside the area of that authority shall be deemed to be situated within the area so specified.

(c) Any question as to the area in which the greater proportion of the land or the part is situated shall, subject to the provision of paragraph (6), be determined by the transferor authority.

(5) Where in relation to any land held (or under article 19, 20 or 39 deemed to be held) for the purposes of the deposit of refuse—

(a) deposit has been completed; and

(b) it has been resolved that the land shall be used (otherwise than temporarily) for the purposes of a particular function,

the land shall be deemed to be held for those purposes and shall be held by the authority to whom it is transferred for those purposes.

Any question whether the deposit of refuse has been completed, or whether it has been resolved as described in (b), or whether any use is temporary, shall, subject to the provision of paragraph (6), be determined by the transferor authority.

(6) If notice is given by any authority that they are dissatisfied with any determination under paragraph (2), (3), (4) or (5), the question shall be determined by agreement between the authorities concerned or failing such agreement by the decision of a person agreed on by such authorities or in default of agreement appointed by the Secretary of State.

(7) The provisions of section 187(2) and (3) of the Act shall be disregarded.

(8) The provision of off-street parking places for vehicles shall be treated as a function exercisable on and after 1st April 1974 by both county and district councils.

### **Fittings, furniture, equipment and stores**

**11.**—(1) Where by paragraph (1) of article 23 any right to the use of any accommodation is ensured for any authority other than the authority in whom the accommodation is vested on and after 1st April 1974, the fittings, furniture, equipment and stores in such accommodation which have been provided exclusively for the purposes of the functions described in (i) or (ii) of the said paragraph shall, except in so far as the first-mentioned authority shall otherwise agree, by virtue of this order be transferred to and vest in such authority.

(2) Subject to paragraph (1), where by article 7, 8 or 9 any building is transferred to and vested in any authority, the fittings, furniture and equipment of such building, and the stores therein which have been provided for the discharge of functions therein, shall, except in so far as such authority shall otherwise agree, by virtue of this order be transferred to and vest in such authority.

If the value of any stores transferred by this paragraph is included in any revenue balance, the necessary adjustment shall be made in such balance.

(3) Subject to paragraph (1), where by article 7, 8 or 9 any land to which paragraph (2) does not apply is transferred to and vested in any authority, the equipment of such land shall, except in so far as such authority shall otherwise agree, by virtue of this order be transferred to and vest in such authority.

(4) For the purposes of this article—

- (a) “equipment” includes records; and
- (b) any vehicles or other mobile equipment used wholly or mainly in the performance of the functions carried out in any accommodation or building or on any land shall be deemed to be equipment thereof.

### **Agreements as to the transfer of property other than land not transferred by the preceding articles**

12.—(1) Paragraph (1) of article 9 applies to this article as it applies to article 9.

(2) Nothing in this article applies to any matter provided for in article 9 or in articles 11(2) and (3) and 18 in their application to any matter provided for in article 9.

(3) Any property other than land vested in an authority named in column (1) of Part I of Schedule 3 (or of any extension thereof effected by any further order under section 254 of the Act made before 1st April 1974) for the purposes of functions—

- (a) which are not exercisable on and after 1st April 1974 by an authority of the specified class in relation to such authority; but
- (b) which are so exercisable by the authorities specified in respect of such authority in column (2),

shall by virtue of this order be transferred to and vest in such one or more of the authorities specified in column (2) as may be agreed between them.

In this paragraph, the specified class of authorities, in relation to any authority described in column (1) of the following table, means the class specified in respect thereof in column (2).

**TABLE**

<i>(1)</i>	<i>(2)</i>
The council of a county	Non-metropolitan county councils
The corporation or council of a borough, or the council of an urban or rural district, wholly or partly comprised in metropolitan districts	Metropolitan district councils
The corporation or council of any other borough, or the council of any other urban or rural district	Non-metropolitan district councils

(4) Any property other than land vested in the council of any administrative county, county borough or county district for the purposes of functions which on 1st April 1974 become exercisable in any area partly by the county council and partly by the district council shall by virtue of this order be transferred to and vest in such one of those councils as may be agreed between them.

(5) Subject to the provisions of paragraphs (3) and (4), any property other than land vested in an authority named in column (1) of Part II of Schedule 3 (or of any extension thereof effected by any further order under section 254 of the Act made before 1st April 1974) shall by virtue of this

order be transferred to and vest in such one or more of the authorities specified in respect of such authority in column (2) as may be agreed between them.

- (6) Any agreement under paragraph (3), (4) or (5) may—
- (a) provide for payment in respect of any property within such paragraph;
  - (b) extend to any matter arising under article 18 in its application to property within such paragraph; and
  - (c) provide that any authority concerned shall be entitled to the use of the property for such period and on such terms as may be agreed, whether for the purposes of the functions for which the property is used immediately before 1st April 1974 or for the purposes of any other functions exercisable by them.

(7) In default of agreement as to any matter arising under paragraph (3), (4), (5) or (6) or article 18 in its application to property within any such paragraph the matter shall be determined by the decision of a person agreed on by the authorities concerned or in default of agreement appointed by the Secretary of State.

- (8) In this article—
- “exercisable” means exercisable otherwise than by virtue of section 101, 110 or 187(2) or (3) of the Act; and
  - “property” does not include the balance on any fund or account.

### **Balances on accounts of undertakings**

**13.**—(1) Subject to paragraph (2), nothing in articles 7 to 12, or in article 18 in its application to any undertaking transferred by any such article, shall be effective to transfer any amount standing as a balance (whether credit or debit) in respect of any undertaking in the revenue accounts of the transferor authority immediately before 1st April 1974.

(2) The provisions of this paragraph shall apply where a local authority maintain separate accounts in respect of any water undertaking transferred by article 7.

Where in such accounts for the period ending on 31st March 1974 as finally closed a credit balance is shown the transfer effected by article 7 shall include the amount shown as such balance.

Where in such accounts for such period as so closed a deficiency is shown the water authority to whom the undertaking (or the undertaking other than any land, buildings or works in Wales) is transferred shall as soon as practicable pay to the authority specified in respect of the local authority in column (2) of Part II of Schedule 4 the amount shown as such deficiency.

### **Certain county council funds**

**14.**—(1) This article applies to the county councils of Berkshire, Buckingham, Chester, Durham, East Suffolk, East Sussex, Gloucestershire, Hampshire, Lancaster, Lincoln, Parts of Lindsey, Northumberland, Nottinghamshire, Somerset, Staffordshire, Surrey, Warwickshire, Worcestershire, Yorkshire, East Riding, Yorkshire, North Riding and Yorkshire, West Riding.

- (2) The balances on the following funds, namely—

the county fund

any capital fund

any renewal and repairs fund

any fund of substantially similar nature to a capital fund or a renewal and repairs fund

of a county council to whom this article applies shall be apportioned between the new counties in which any parts of the area of such council are comprised in the proportions which the aggregate



rateable value of all the hereditaments in the several parts, as shown in the valuation lists immediately before 1st April 1974, bear to the aggregate rateable value of all the hereditaments in all such parts, and the amounts so apportioned shall be payable to the councils of such counties.

### **Certain county borough and county district council funds**

**15.**—(1) This article applies to the councils of the boroughs of Teesside and Whitley Bay, the urban districts of Ashton-in-Makerfield, Billinge-and-Winstanley, Golborne, Lakes, Queensbury and Shelf, Ramsbottom, Seaton Valley, Thurrock and Turton and the rural districts of Axbridge, Basford, Blackburn, Blofield and Flegg, Bridlington, Brixworth, Bucklow, Burnley, Castle Ward, Chelmsford, Chesterfield, Chester-le-Street, Chichester, Clutton, Croft, Cuckfield, Darlington, Dartford, Dorking and Horley, Droitwich, Easington, East Retford, Eastry, Epping and Ongar, Eton, Gloucester, Hemsworth, Hertford, Kettering, Lichfield, Lothingland, Market Bosworth, Meriden, Norman Cross, Northampton, Osgoldcross, Pershore, Preston, Ringwood and Fordingbridge, Runcorn, St. Albans, St. Thomas, Shifnal, Skipton, Sodbury, South East Derbyshire, Stockton, Stokesley, Stratford-on-Avon, Strood, Tadcaster, Thirsk, Thornbury, Tonbridge, Wantage, Watford, Wellingborough, West Lancashire, Wetherby, Wharfedale, Whiston, Wigan, Winchester, Winslow, Worksop, Worthing and Wortley.

(2) The balances on the following funds, namely—

the general rate fund, other than the housing revenue account;

any capital fund, renewal and repairs fund or fund of a similar nature to either such fund other than one maintained in connection with any undertaking transferred by article 7,

of a council to whom this article applies shall be apportioned between the districts in which any parts of the area of such council are comprised in the proportions which the aggregate rateable value of all the hereditaments in the several parts, as shown in the valuation lists immediately before 1st April 1974, bear to the aggregate rateable value of all the hereditaments in all such parts, and the amounts so apportioned shall be payable to the councils of such districts.

(3) This paragraph has effect in relation to the housing revenue account of a council to whom this article applies.

The working balance on such account shall be apportioned between the districts in which dwellings of the council are situated in the proportions which the numbers of such dwellings in the several districts bear to the total number of such dwellings, and the amounts so apportioned shall be payable to the councils of such districts and shall attach to the housing revenue accounts of the councils.

In this paragraph “dwellings” means Housing Revenue Account dwellings within the meaning of the Housing Finance Act 1972

### **Residual transfer of property, etc**

**16.**—(1) Save as provided in paragraph (2) of this article, paragraph (1) of article 9 applies to this article as it applies to article 9.

(2) The following entry in Schedule 4, namely—

“The representative body of any parish not included in the preceding items”

shall extend to property held by any such representative body for the purposes of charitable trusts.

(3) Subject to the provisions of articles 9 to 15 or of articles 11(2) and (3) and 18 in their application to any matters provided for in articles 9 to 15—

(a) all property and liabilities vested in or attaching to an authority described in column (1) of Part I or II of Schedule 4 (or of any extension thereof effected by any further order under section 254 of the Act made before 1st April 1974) shall by virtue of this order be

transferred to and vest in or attach to the authority specified in respect of such authority in column (2);

- (b) all contracts, deeds, bonds, agreements and other instruments subsisting in favour of, or against, and all notices in force which were given (or have effect as if they had been given) by, or to, an authority described in column (1) of Part I or II of Schedule 4 (or of any extension thereof as aforesaid) shall be of full force and effect in favour of, or against, the authority specified in respect of such authority in column (2);
- (c) any action or proceeding or any cause of action or proceeding, pending or existing at 1st April 1974, by, or against, an authority described in column (1) of Part I or II of Schedule 4 (or of any extension thereof as aforesaid) shall not be prejudicially affected by reason of the Act or the Water Act 1973, and may be continued, prosecuted and enforced by, or against, the authority specified in respect of such authority in column (2); and
- (d) any power to appoint any person to any body belonging to an authority described in column (1) of Part I or II of Schedule 4 (or of any extension thereof as aforesaid) in respect of any matter provided for in (a) or (b) shall be transferred to the authority specified in respect of such authority in column (2).

### **General saving for agreements**

17.—(1) The authority to whom any account or fund is transferred, or any amount of any fund is payable, by virtue of any provision of this order, may agree that any particular amount in the account or fund shall be payable to any other authority.

(2) The authority to whom any other property other than land is transferred by the preceding articles of this order other than article 7 may by resolution agree that the property shall be transferred to any other authority specified in the resolution, and paragraphs (2) to (5) of article 18 shall apply accordingly.

(3) The transferee authority in respect of any matter other than property, provided for in paragraph (4), (5) or (6) of article 9 or in (a), (b) or (c) of paragraph (3) of article 16, and any other authority, may agree that that other authority shall be substituted for the transferee authority in the application of any such provision.

(4) The provision made by the preceding articles of this order, other than articles 12, 14 and 15, for the transfer of any matter is without prejudice to any agreement which may be made for payment in respect of such matter.

### **Liabilities, contracts etc., notices and proceedings in respect of transferred property, etc**

18.—(1) This article applies to the following matters, namely—

- (a) any property described in (a), (b) or (e) of article 9(1); and
- (b) any property transferred by this order.

(2) Subject to paragraph (6), all liabilities attaching to any authority in respect of any property to which this article applies shall by virtue of this order be transferred to and attach to the authority to whom such property is transferred.

(3) All contracts, deeds, bonds, agreements and other instruments subsisting in favour of, or against, and all notices in force which were given (or have effect as if they had been given) by, or to, the authority first mentioned in paragraph (2) in respect of any property to which this article applies, or in respect of liabilities transferred by paragraph (2), shall be of full force and effect in favour of, or against, the authority to whom such property and liabilities are transferred.

(4) Any action or proceeding or any cause of action or proceeding, pending or existing at 1st April 1974, by, or against, the authority first mentioned in paragraph (2) in respect of any property

to which this article applies, or in respect of liabilities transferred by paragraph (2), shall not be prejudicially affected by reason of the Act or the Water Act 1973, and may be continued, prosecuted and enforced by, or against, the authority to whom such property and liabilities are transferred.

(5) Any power to appoint any person to any body belonging to the authority first mentioned in paragraph (2) in respect of any property (other than that described in (a) and (b) of article 9(1)) to which this article applies or any matter provided for in paragraphs (2) and (3) shall be transferred to the authority to whom such property or matter is transferred.

(6) Paragraph (2) shall not apply to the rights and liabilities described in entry (a) in item No. 19 in the table in Schedule 2, but paragraphs (3) to (5) shall apply in respect of such rights and liabilities.

### **Land held for several purposes**

**19.**—(1) Where any land, not being a property described otherwise than as an undertaking in column (2) of Schedule 1 or of any extension thereof described in article 7, is held by an authority for the purposes of functions exercisable on and after 1st April 1974 by two or more authorities, or for the purposes of a function which will then be so exercisable, the land shall, subject to the provision of paragraphs (2) to (6), for the purposes of this order be deemed to be held for the purposes of the function exercisable by such one of those authorities as shall be determined by the first-mentioned authority to be the function for which the land is, immediately before that date, used to the greatest extent.

In such determination the first-mentioned authority shall disregard any use of the land which is temporary.

(2) In the application of paragraph (1), where any function is exercisable on and after 1st April 1974 by an authority of the relevant class in relation to the authority first mentioned in that paragraph and by any other authority, the function shall be deemed to be exercisable only by the authority of the relevant class.

(3) Subject to paragraph (2), two (but not more) functions exercisable on and after 1st April 1974 by an authority shall be treated as a single function in the application of paragraph (1).

(4) Any land to which paragraph (1) applies shall be held by the authority to whom it is transferred for the purposes of the function determined under that paragraph, or where two functions have been treated as a single function under paragraph (3) for the purposes of such one of those functions as is determined by the authority to whom the land is transferred.

(5) If notice is given by any authority that they are dissatisfied with the determination in paragraph (1) the purposes therein described shall be determined by agreement between the two or more authorities so described or failing such agreement by the decision of a person agreed on by such authorities or in default of agreement appointed by the Secretary of State, and paragraphs (1) and (4) shall have effect accordingly. Paragraphs (2) and (3) shall apply in the application of this paragraph.

(6) In this article, “exercisable” means exercisable otherwise than by virtue of section 101, 110 or 187(2) or (3) of the Act.

(7) In the application of this article, any reference to the purposes of functions includes a reference to the purposes of an undertaking transferred by article 7.

### **Property to be deemed to be held for the purposes of statutory functions**

**20.**—(1) This article applies to—

- (a) any property held under section 125 of the Local Government Act 1933;
- (b) any land acquired under section 112, 114 or 119(1)(a) of the Town and Country Planning Act 1971 or any earlier provision corresponding to any such enactment;
- (c) any corporate land;

- (d) any land acquired under any provision empowering the acquisition of land for the benefit, improvement or development of any area and not allocated or appropriated for any statutory purpose; and
- (e) any property acquired by a local authority as a gift otherwise than for charitable purposes.

(a) (2) (a) Where any property to which this article applies is, immediately before 1st April 1974—

(i) in the case of property referred to in paragraph (1)(a), used wholly or substantially so for the purposes of a particular function being purposes authorised by enactments other than the said section 125,

(ii) in the case of property referred to in paragraph (1)(b), used wholly or mainly for the purposes of statutory functions other than those exercised under the Town and Country Planning Acts 1971 and 1972;

or

(iii) in the case of property referred to in paragraph (1)(c), (d) and (e), used wholly or mainly for the purposes of any statutory function,

it shall for the purposes of this order be deemed to be held for the purposes of the function for which it is so used.

In the application of this sub-paragraph any temporary use of the property shall be disregarded.

- (b) Two (but not more) functions shall be treated as a single function in the application of this paragraph.
- (c) Any property to which this paragraph applies shall be held by the authority to whom it is transferred for the purposes of the function described in (i), (ii) or (iii) of sub-paragraph (a) or where two functions have been treated as a single function for the purposes of such one of those functions as is determined by the authority to whom the property is transferred.

(3) Any question whether any property to which this article applies is, immediately before 1st April 1974, used as described in (i), (ii) or (iii) of paragraph (2)(a) shall, subject to the following provision of this paragraph, be determined by the authority in whom the property is, before 1st April 1974, vested.

If notice is given by any authority that they are dissatisfied with any such determination the question shall be determined by agreement between the authorities concerned or failing such agreement by the decision of a person agreed on by such authorities or in default of agreement appointed by the Secretary of State, and sub-paragraph (c) of paragraph (2) shall apply accordingly. Sub-paragraph (b) of paragraph (2) shall apply in the application of this paragraph.

(4) In the application of this article, any reference to the purposes of functions includes a reference to the purposes of an undertaking transferred by article 7.

### **Questions as to appropriations**

**21.** The provisions of this article shall have effect in relation to any land appropriated between 9th November 1973 and 1st April 1974 and to any financial adjustment made on the appropriation.

Any such land shall for the purposes of this order be treated as held for the purpose for which it has been appropriated, and any financial adjustment made on the appropriation shall be of full effect, unless a local authority, Passenger Transport Executive or water authority give notice that the land falls to be treated for the purposes of this order as being held for the purpose for which it was held before the appropriation, or that the financial adjustment falls to be varied. If such notice is given the question of the purpose for which the land is held or, as the case may be the adjustment to be made, shall be determined by agreement between the authorities concerned or

failing such agreement by the decision of a person agreed on by such authorities or in default of agreement appointed by the Secretary of State.

### **Buildings to be replaced**

**22.**—(1) The provisions of this article shall apply where—

- (a) at 1st April 1974 any building or part of a building is to be wholly or substantially so replaced by another building which is completed or in course of erection or for the erection of which a contract has been entered into or by part of such building;
- (b) it has been resolved by the transferor authority before the date of the making of this order that the first-mentioned building or part of a building or the site thereof is to be used for the purposes of some function other than the one for which it is held;
- (c) the nature of the building or the location of its site is such as to make it peculiarly suited for use for the purposes of such function rather than other local government purposes,

and apart from the provisions of this article the two buildings or parts of buildings would be transferred to the same authority.

(2) The transferor authority may determine that for the purposes of this order the land on which the building or part of a building first mentioned in paragraph (1) is erected shall be deemed to be held for the purposes for which by the resolution described in item (b) of that paragraph it is to be used.

(3) If notice is given by any authority concerned that they question whether (a), (b) or (c) in paragraph (1) is satisfied, the determination shall be of no effect and the question of the purpose for which the land is to be deemed to be held shall be determined by agreement between the authorities concerned or failing such agreement by the decision of a person agreed on by such authorities or in default of agreement appointed by the Secretary of State.

### **User rights**

**23.**—(1) This paragraph applies to—

- (a) accommodation in any property transferred to and vested in any authority by virtue of this order (hereinafter referred to as “case (a)”);
- (b) accommodation in any property held by a parish authority and not transferred by virtue of this order (hereinafter referred to as “case (b)”);

immediately before 1st April 1974 used (or in the case of accommodation not yet in occupation proposed to be used) otherwise than temporarily—

- (i) in case (a) for the purposes of any functions which on and after 1st April 1974 are not exercisable (or not exercisable as regards any part of the area served from the accommodation) by the authority to whom the property is transferred;
- (ii) in case (b) for the purposes of any functions which on and after 1st April 1974 are not exercisable (or not exercisable as regards any part of the area served from the accommodation) by a parish authority.

In the case of any accommodation to which this paragraph applies the authority exercising the functions described in (i) or (ii) in the area served by the accommodation or, as the case may be, the part thereof shall be entitled to the use of such accommodation, whether for the purposes of such functions or for the purposes of any other functions exercisable by them.

(2) Where—

- (a) any property is immediately before 1st April 1974 used (or in the case of property not yet in use proposed to be used) otherwise than temporarily for the purposes of functions exercisable by one authority in relation to any area;

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- (b) the functions become exercisable on and after that day by two or more authorities; and
- (c) the property is by virtue of this order transferred to and vested in one of the authorities described in (b);

(hereinafter referred to as “case (c)”) any other of the authorities described in (b) shall be entitled to the use of such property, whether for the purposes of such functions or for the purposes of any other functions exercisable by them.

(3) Where—

- (a) any property to which paragraph (2) does not apply is immediately before 1st April 1974 held by the council of a county, county borough or county district under section 125 of the Local Government Act 1933; and
- (b) the property is by virtue of this order transferred to and vested in the council of any relevant area,

(hereinafter referred to as “case (d)”) the council of any other relevant area shall be entitled to the use of the property.

In this paragraph, “relevant areas” means—

- in relation to a county, new counties and metropolitan districts;
- in relation to a county borough or county district, new counties and districts,

being areas in which the area of the county, county borough or county district is comprised.

(4) Where—

- (a) any property is immediately before 1st April 1974 used (or in the case of property not yet in use proposed to be used) otherwise than temporarily for the purposes of functions exercisable by two or more authorities;
- (b) the property is by virtue of this order transferred to and vested in one authority;

(hereinafter referred to as “case (e)”) any other authority exercising any of the functions described in (a) shall be entitled to the use of such property whether for the purposes of such functions or for the purposes of other functions exercisable by them.

(5) Any question—

- (a) whether any accommodation in any property to which paragraph (1) applies is used (or proposed to be used) for the purposes described in (i) or (ii) of that paragraph;
- (b) whether any property to which paragraph (2) applies is used (or proposed to be used) as described in (a) thereof;
- (c) whether any property to which paragraph (4) applies is used (or proposed to be used) as described in (a) thereof; or
- (d) without prejudice to (c) whether any use (or proposed use) is temporary,

shall, subject to the following provision of this paragraph, be determined by the authority in whom the property is, before 1st April 1974, vested.

If, before 1st April 1975, notice is given by any authority that they are dissatisfied with any such determination (or, no determination having been made, that a question exists) the question shall be determined by agreement between the authorities concerned or failing such agreement by the decision of a person agreed on by such authorities or in default of agreement appointed by the Secretary of State.

(6) The use of any accommodation or property by virtue of this article shall be for such period and on such terms as may be determined by agreement between the authority entitled under this article to use the accommodation or property and, in case (a), (c), (d) or (e) the authority to whom the property

is transferred and in case (b) the parish authority, or failing such agreement by the decision of a person agreed on by such authorities or in default of agreement appointed by the Secretary of State.

(7) In this article “exercisable” means exercisable otherwise than by virtue of section 101, 110 or 187(2) or (3) of the Act.

### **Charter trustees**

**24.**—(1) It shall be the duty of the council of a district in which a city or town for which there are charter trustees is situated to provide accommodation for the proper discharge of the functions of the charter trustees.

(2) The accommodation to be provided and the terms on which it is provided shall be determined by agreement between the district council and the charter trustees, or failing such agreement by the decision of a person agreed on by them or in default of agreement appointed by the Secretary of State.

### **Corporate land**

**25.**—(1) Any question whether any land vested in the corporation of a borough is corporate land shall, subject to the following provision of this paragraph, be determined by the council of the borough.

If notice is given by any authority that they are dissatisfied with any such determination the question shall be determined by agreement between the authorities concerned or failing such agreement by the decision of a person agreed on by such authorities or in default of agreement appointed by the Secretary of State.

(2) Any corporate land to which article 20(2) does not apply and which is transferred by this order to any authority shall be held by that authority as if it had been acquired by that authority under section 120(1)(b) or 124(1)(b), as the case may be, of the Act.

### **Inventories of road passenger transport undertakings**

**26.** The council of any county borough from whom any road passenger transport undertaking will be transferred to a Passenger Transport Executive by article 7 shall, not later than 31st January 1974, supply to such Executive—

- (a) an inventory of the land, buildings and vehicles comprised in the undertaking;
- (b) a statement of the financial position of the undertaking;
- (c) a statement of any appropriations subsequent to 9th November 1973 of land held for the purposes of the undertaking.

### **Inventories of property transferred to water authorities**

**27.**—(1) Any authority from whom any water undertaking, or any water undertaking other than any land, buildings or works in Wales, will be transferred to a water authority by article 7 shall, not later than 31st January 1974, supply to such water authority—

- (a) an inventory of the land, buildings, water mains, plant and other vehicles (other than any land, buildings or works in Wales) comprised in the undertaking;
- (b) a statement of the financial position of the undertaking;
- (c) a statement of any appropriations subsequent to 9th November 1973 of land held for the purposes of water supply.

(2) Any authority from whom any public sewer or any sewage disposal works will be transferred to a water authority by article 8 shall, not later than 31st January 1974, supply to such water authority

an inventory of the sewers and sewage disposal works which will be transferred to such water authority.

### **Property and liabilities to attach to whole areas**

**28.**—(1) Subject to paragraph (2), any interest in any property or any liability transferred by the preceding articles of this order to the authority for any county, district or parish shall be held or discharged by them in respect of the whole of such area.

(2) Paragraph (1)—

- (a) shall not apply to any property or liability transferred by article 16 as extended by paragraph (2) thereof;
- (b) shall not apply in respect of any interest in any property or any liability which by reason of agreements made by authorities abolished by the Act falls to be held or discharged in respect of any specific area; and
- (c) shall have effect subject to the provision of subsections (4) and (5) of section 248 of the Act (freemen and inhabitants of existing boroughs).

### **Byelaws, etc**

**29.**—(1) Any byelaws in force for the regulation of any property described in (a) or (b) of article 9(1) or transferred by the preceding articles of this order shall have effect as if they had been made by the authority to whom such property is transferred.

(2) Any provision of any local Act or of any order made under or confirmed by any Act which applies to any property described in (a) or (b) of article 9(1) or transferred by the preceding articles of this order shall have effect with the substitution for any references to (or having effect as references to) the authority from whom such property is transferred of references to the authority to whom the property is transferred.

### **Vehicle licences**

**30.** Any excise licence, operators' licence, public service vehicle licence, road service licence, plating certificate or other document issued in respect of any vehicle transferred by the preceding articles of this order shall have effect as if it had been issued to the authority to whom such vehicle is transferred, and any reference to the authority from whom the vehicle is transferred in any such licence or certificate or in any registration book or other document issued in respect of such vehicle shall have effect as a reference to the authority to whom the vehicle is transferred.

### **Markets**

**31.** The expression “market authority” in Part III of the Food and Drugs Act 1955 shall include any district council to whom such a market as is described in section 49(2) of that Act is transferred by this order.

### **Loan sanctions**

**32.** Any authorisation of the borrowing of money in force in respect of any property or liability described in (a), (b) or (e) of article 9(1) or transferred by the preceding articles of this order to the authority for any county, district or parish may, subject to the terms applicable thereto, be acted on by such authority.



### **Security for loans**

**33.** Where under this order any liability or part of a liability charged indifferently on all the revenues of a public body or on any particular revenues or fund of such body is transferred to another public body, the liability or part of the liability shall be charged indifferently on all the revenues of the public body to whom it is transferred and shall cease to be a charge on any revenues or fund of the public body from whom it is transferred.

### **Capital and renewal and repairs funds**

**34.—(1)** A local authority may transfer the balance on any capital fund or renewal and repairs fund transferred to them under article 16 or the amount of any such fund received by them under article 14 or 15 to the credit of a capital fund or a renewal and repairs fund, as the case may be, established by them under Schedule 13 to the Act.

(2) Where any matter in respect of which a repayable advance which has not been fully repaid has been made from a capital fund or a renewal and repairs fund is transferred by the Act or this order to any authority, that authority may treat the outstanding amount of the advance as an advance from a capital fund or a renewal and repairs fund established by them under Schedule 13 to the Act and make such payments to such fund as the authority consider appropriate, but otherwise any liability to make repayments in respect of the advance shall cease.

### **Loans pools and consolidated loans funds**

**35.—(1)** This article applies where, if the Act had not been passed and this order had not been made, advances from a loans pool or consolidated loans fund would have fallen to be repaid in respect of any matter, and the matter is by virtue of the Act or this order transferred to an authority other than the authority to whom the pool or fund is transferred by article 7 or 16.

(2) Sums which would have become due and owing to the pool or fund in respect of such advances shall be paid by the authority first mentioned in paragraph (1) to the authority last mentioned therein: Provided that the said authorities and the lender may agree for the transfer to the first-mentioned authority of the liability with respect to any outstanding loan.

(3) The outstanding amount in respect of any such advances shall be shown in the accounts of the authority first mentioned in paragraph (1) as loans from other local authorities and as advances to the appropriate borrowing account.

(4) The outstanding amount in respect of any such advances shall be shown in the accounts of the authority last mentioned in paragraph (1) as loans to other authorities.

### **Audit of accounts**

**36.—(1)** The repeal effected by section 272 of, and Schedule 30 to, the Act of Part X of the Local Government Act 1933 shall not affect

- (a) any audit of accounts for any period preceding 1st April 1974; or
- (b) any disallowance, surcharge, appeal, application or disqualification arising from any audit of such accounts by a district auditor (whether an audit completed before the said date or an audit falling within (a)),

but nothing in sections 154 to 167, 196(3) and 197(4) of or in section 251(1) in so far as it extends to paragraph 7(1) of Schedule 29 to, the Act shall apply to any accounts which are subject to district audit under the said Part X.

(2) The said Part X shall apply to the accounts of any committee established under section 264 of the Act, and of the sub-committees and officers thereof, as if the committee had been established under Part III of the Local Government Act 1933.

(3) In relation to the accounts of any authority described in column (1) of Part I or II of Schedule 4 (or of any extension thereof described in article 16) to whom Part X of the said Act of 1933 applied or of the committees or officers thereof, any action which had the Act not been passed would have fallen to be taken by such authority shall be taken by the authority specified in respect of such authority in column (2).

(4) If at any audit of the accounts of an authority described in column (1) of Part I or II of Schedule 4 (or of any extension thereof described in article 16) to whom Part X of the said Act of 1933 applied or of the committees and officers thereof any sum is certified by a district auditor as due from any person, that sum shall be paid to the authority specified in respect of that authority in column (2).

### **Inspection of documents**

**37.** Any officer of the council of any county or district, of a Passenger Transport Executive or of a water authority, duly authorised in that behalf, shall, for the purposes of the functions of the authority by whom he is employed, be entitled during ordinary office hours to inspect and take extracts from any books or documents of any council dissolved by section 1(10) or 20(6) of the Act not in the custody of such authority.

### **Legal proceedings**

**38.** All legal proceedings pending at 1st April 1974 may be amended in such manner as may be necessary or proper in consequence of the Act or the Water Act 1973 or the preceding articles of this order.

### **General provision as to disputes**

**39.—**(1) Any question as to the interpretation of this order may be determined by the decision of a person agreed on by the authorities concerned or in default of agreement appointed by the Secretary of State.

(2) Where a determination required by article 10(2), (3), (4) or (5), 19(1), 20(3) or 25(1) has not been made by the transferor authority before 1st April 1974 notice that a question exists may be given before 1st April 1975 by any authority concerned.

(3) Where—

(a) at 1st April 1974—

- (i) notice has been given by any authority under article 10(6), 19(5), 20(3), 21, 22(3) or 25(1) or paragraph 3(c) of Schedule 2,
- (ii) notice has been given by any authority that the provisions of this paragraph are to have effect in relation to any property within paragraph (3), (4) or (5) of article 12 specified in the notice; or
- (iii) notice has been given by any authority that the interpretation of any provision of this order as to the transfer of any property is in dispute,

and the question has not been determined; or

(b) thereafter, but before 1st April 1975—

- (i) notice is given by any authority under any provision specified in (a)(i);
- (ii) notice is so given under paragraph (2);
- (iii) notice is so given that the provisions of this paragraph are to have effect in relation to any property within paragraph (3), (4) or (5) of article 12 specified in the notice; or

(iv) notice is so given that the interpretation of any provision of this order as to the transfer of any property is in dispute,

then from 1st April 1974 or from the later date on which notice is given, as the case may be—

(k) any provisions of this order as to the transfer and vesting of property shall cease to have effect in relation to the property;

(l) article 16 shall apply to the property, and article 18 shall apply to any liabilities incurred, contracts, deeds, bonds, agreements and other instruments subsisting, notices given, actions and proceedings pending and causes of action or proceeding existing in relation thereto, as temporary provision pending the determination of the question;

Provided that the authorities concerned may by instrument in writing agree that any authority may in such application be substituted for the authority specified in column (2) of Part I or II of Schedule 4 in respect of the transferor authority;

(m) where notice has been given under paragraph (2), the question shall be determined by agreement between the authorities concerned or failing such agreement by the decision of a person agreed on by such authorities or in default of agreement appointed by the Secretary of State; and

(n) on the determination of the question whether under (m) or otherwise—

(x) the determination shall specify the authority to whom the property is to be transferred; and

(y) the provisions described in (l) shall cease to have effect, the property shall by virtue of the determination be transferred to and vest in the authority specified in the determination, and the provisions of this order which would have applied to the property if the transfer had been effected by this order shall apply to it.

(4) Any reference in any provision of this order for the decision of any question by a person shall be construed as including a reference to three persons.

(5) Section 31 of the Arbitration Act 1950 shall have effect for the purposes of the determination of any question by any person or persons under any provision of this order as if such determination were an arbitration under any other Act within the meaning of that section.

8th November 1973

*Geoffrey Rippon*  
Secretary of State for the Environment