

1974 No. 594

HOUSING, ENGLAND AND WALES

The Housing (Transitional Provisions) Order 1974

Made	- - -	27th March 1974
Laid before Parliament		28th March 1974
Coming into Operation		1st April 1974

The Secretary of State for the Environment and the Secretary of State for Wales, in exercise of their powers under section 254(1) and (2)(a), (c) and (h) of the Local Government Act 1972(a), and under those provisions as extended by section 102(5) of the Housing Finance Act 1972(b) and of all other powers enabling them in that behalf, hereby make the following order in relation, respectively, to England and Wales:—

Citation and commencement

1. This order may be cited as the Housing (Transitional Provisions) Order 1974 and shall come into operation on 1st April 1974.

Interpretation

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

(2) In this order, unless the context otherwise requires—

“the Housing Act” means the Housing Finance Act 1972;

“the 1972 Act” means the Local Government Act 1972;

“the English Order” means the Local Authorities (England) (Property etc.) Order 1973(d);

“the Welsh Order” means the Local Authorities (Wales) (Property etc.) Order 1973(e);

“the appropriate proportion” in relation to any amount, however expressed, means—

(a) in relation to any area comprised in the district of a new authority which immediately before 1st April 1974 was co-extensive with the district of an existing authority, the whole of that amount; and

(a) 1972 c. 70.

(c) 1889 c. 63.

(e) S.I. 1973/1863 (1973 III, p. 6452).

(b) 1972 c. 47.

(d) S.I. 1973/1861 (1973 III, p. 6401).

(b) in relation to any area comprised in the district of a new authority and not falling within sub-paragraph (a) above, but which immediately before 1st April 1974 formed part of the district of an existing authority, such proportion of that amount as the number of Housing Revenue Account dwellings in that area bore to the total number of such dwellings in the whole of the district of the existing authority on 31st March 1974;

“combined district” means a district of a new authority other than a non-combined district;

“constituent part” in relation to any combined district means any area which immediately before 1st April 1974 constituted a district or part of a district of an existing authority;

“existing authority” means, as respects any area comprised in the district of a new authority, the authority who immediately before 1st April 1974 were the local authority as respects that area (whether or not co-extensive with any local government area) for the purposes of the Housing Acts 1957 to 1973 (disregarding any order made under section 95 of the Housing Act);

“new authority” means the council of a district who are the local authority with respect to that district for the purposes of the Housing Acts 1957 to 1973;

“non-combined district” means a district of a new authority which immediately before 1st April 1974 constituted the district of a single existing authority;

“Wales” means the area consisting of the counties established by section 20 of the 1972 Act (new local government areas in Wales), and England shall not include any area included in any of those counties.

(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) In this order, unless the context otherwise requires, expressions used which are also used in the Housing Act shall have the same meaning as they have in that Act.

(5) In this order, unless the context otherwise requires, any reference in any article 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.

Residual subsidy

3.—(1) This article has effect for the purposes of establishing the entitlement (if any) of a new authority under section 2 of the Housing Act to residual subsidy for the year 1974-75 and subsequent years.

(2) In the case of a non-combined district, the entitlement of a new authority to residual subsidy for the year 1974-75 and subsequent years shall be the same as that which the existing authority would have had if the 1972 Act had not been passed.

(3) In the case of a combined district, the entitlement of a new authority to residual subsidy for the year 1974-75 and subsequent years shall be the aggregate of the constituent amounts (if any) determined in accordance with paragraph (4).

(4) In the case of a combined district, if for any year beginning 1974-75 an existing authority would, but for the passing of the 1972 Act, have had an entitlement to residual subsidy for that year, the constituent amount for that year as respects any constituent part of that combined district shall be the appropriate proportion of the amount of the residual subsidy to which the existing authority would have been so entitled for that year.

Transition subsidy

4.—(1) Subject to the provisions of this article, the entitlement of a new authority to transition subsidy and their obligation to make an associated rate fund contribution for the year 1974-75 and subsequent years shall be determined in accordance with section 3 of the Housing Act.

(2) In the case of a non-combined district, the entitlement of a new authority to transition subsidy and their obligation to make an associated rate fund contribution for the year 1974-75 and subsequent years shall be the same as that which the existing authority would have had if the 1972 Act had not been passed.

(3) Where, in the case of a combined district, an existing authority were entitled to transition subsidy for any base year beginning before 1st April 1974, by reference to a shortfall for that year, the new authority shall, subject to Part III of Schedule 1 to the Housing Act, be entitled to transition subsidy for the year 1974-75 and each subsequent year consisting of or, as the case may be, comprising an element for that base year equivalent to the appropriate proportion, in relation to any constituent part of the district, of the amount of transition subsidy to which the existing authority were entitled for the relevant base year by reference to the shortfall for that year, or, where more than one existing authority were so entitled, equivalent to the aggregate of such appropriate proportions.

(4) If for the year 1974-75 or any subsequent year the entitlement of a new authority to transition subsidy consists of or, as the case may be, comprises an element for a base year calculated in accordance with paragraph (3), the associated rate fund contribution to be made by the new authority for that year shall, subject to Part III of Schedule 1 to the 1972 Act, consist of or, as the case may be, comprise an element by reference to the shortfall for that base year, equivalent to the appropriate proportion, in relation to any constituent part of the district, of the amount of the associated rate fund contribution which was required to be made by the existing authority, by reference to the shortfall for that base year, or, where more than one existing authority were required to make such a contribution, equivalent to the aggregate of such appropriate proportions.

(5) In ascertaining in the case of a combined district the amount of a new authority's "rent increases" for the year 1974-75 for the purposes of section 3 of the Housing Act, the amount to be taken as the income of the new authority from rents in respect of Housing Revenue Account dwellings for the immediately preceding year shall be the aggregate income from rents (exclusive of any amount as mentioned in subsection (5) of the said section 3) of the existing

authorities for the year 1973-74 in respect of the Housing Revenue Account dwellings of those authorities which were transferred to the new authority by virtue of the English Order or, as the case may be, the Welsh Order.

(6) The requirements of paragraph (5) shall be deemed to be satisfied if the aggregate income from rents (exclusive of any amount as mentioned in the said subsection (5)) of the existing authorities for the year 1973-74 is calculated by reference in the case of any constituent part of a combined district to the appropriate proportion of the income from rents of the existing authority for that year of all that authority's Housing Revenue Account dwellings.

(7) For the purpose of calculating under the provisions of subsection (7) of section 3 of the Housing Act, in the case of a combined district, a new authority's standard amount for the year 1974-75—

- (a) the amount which is to be taken as the residual subsidy payable for the immediately preceding year shall be an amount equivalent to the aggregate of the appropriate proportions, in relation to the constituent parts of the district, of the amounts of residual subsidy (if any) to which the existing authorities were entitled for the year 1973-74; and
- (b) the withdrawal factor shall be an amount equivalent to the aggregate of the appropriate proportions, in relation to the constituent parts of the district, of the withdrawal factors which applied in relation to the existing authorities.

Rising costs subsidy

5.—(1) Subject to the provisions of this article, the entitlement of a new authority to rising costs subsidy and their obligation to make an associated rate fund contribution for the year 1974-75 and subsequent years shall be determined in accordance with section 4 of the Housing Act.

(2) In the case of a non-combined district, the entitlement of a new authority to rising costs subsidy and their obligation to make an associated rate fund contribution for the year 1974-75 and subsequent years shall be the same as that which the existing authority would have had if the 1972 Act had not been passed.

(3) Where, in the case of a combined district, an existing authority were entitled to rising costs subsidy for any base year beginning before 1st April 1974 by reference to a qualifying amount for that year, the new authority shall, subject to Part III of Schedule 1 to the Housing Act, be entitled to rising costs subsidy for the year 1974-75 and each subsequent year consisting of or, as the case may be, comprising an element for that base year equivalent to the appropriate proportion, in relation to any constituent part of the district, of the amount of rising costs subsidy to which the existing authority were entitled for the relevant base year by reference to the qualifying amount for that year, or, where more than one existing authority were so entitled, equivalent to the aggregate of such appropriate proportions.

(4) If for the year 1974-75 or any subsequent year the entitlement of a new authority to rising costs subsidy consists of or, as the case may be, comprises an element for a base year calculated in accordance with paragraph (3), the associated rate fund contribution to be made by the new authority for that

year shall, subject to Part III of Schedule 1 to the Housing Act, consist of or, as the case may be, comprise an element by reference to the qualifying amount for that base year, equivalent to the appropriate proportion, in relation to any constituent part of the district, of the amount of the associated rate fund contribution which was required to be made by the existing authority by reference to the qualifying amount for that base year, or, where more than one existing authority were required to make such a contribution, equivalent to the aggregate of such appropriate proportions.

(5) In ascertaining in the case of a combined district a new authority's qualifying amount for the year 1974-75 for the purposes of section 4 of the Housing Act, the amount to be taken as the new authority's reckonable expenditure for the year 1973-74 shall be an amount equivalent to the aggregate of the appropriate proportions, in relation to the constituent parts of the district, of the reckonable expenditure of the existing authorities for the year 1973-74.

Operational deficit subsidy

6.—(1) This article has effect for the purposes of establishing the entitlement (if any) of a new authority under section 5 of the Housing Act to operational deficit subsidy and the associated rate fund contribution to be made by the new authority for the year 1974-75 and subsequent years.

(2) In the case of a non-combined district the entitlement of a new authority to operational deficit subsidy and their obligation to make an associated rate fund contribution for the year 1974-75 and subsequent years, shall be the same as that which the existing authority would have had if the 1972 Act had not been passed.

(3) Subject to Part III of Schedule 1 to the Housing Act, in the case of a combined district, the entitlement of a new authority to operational deficit subsidy for the year 1974-75 and subsequent years shall be an amount equivalent to the aggregate of the constituent amounts (if any) determined in accordance with paragraph (4), and the associated rate fund contribution to be made by the new authority shall be the same amount.

(4) The constituent amount in relation to any constituent part of a combined district shall be an appropriate proportion of the amount of operational deficit subsidy to which the existing authority was entitled for the year 1973-74.

Subsidy claims

7. In the case of any subsidy to be paid by the Secretary of State under Part I of the Housing Act to an existing authority for any year beginning before 1st April 1974, in respect of which a claim for payment has not been made before that date by that authority in accordance with section 15 of that Act, that claim may be made—

(a) in any case where an authority ("the relevant authority") are required, by virtue of article 36(3) of the English Order or, as the case may be, article 35(3) of the Welsh Order, to take any action in relation to the accounts of an existing authority which, had the 1972 Act not been passed, would have fallen to be taken by that existing authority, by the relevant authority; and

(b) in any other case, by the new authority.

Rent rebates and rent allowances

8.—(1) Subject to the following provisions of this article, in the case of a non-combined district, the existing rebate scheme and the existing allowance scheme shall continue in force and have effect as if made by the new authority.

(2) Subject to the following provisions of this article, in the case of a combined district, any existing rebate scheme or existing allowance scheme shall continue in force as respects any constituent part of that district and shall have effect as if made by the new authority.

(3) Nothing in the foregoing provisions of this article shall affect any function of a new authority under Part II of the Housing Act to vary or revoke any existing rebate scheme or any existing allowance scheme.

(4) The foregoing provisions of this article shall not apply or, as the case may be, shall cease to apply in any case where a new authority make a rebate scheme or an allowance scheme under Part II of the Housing Act to come into operation on 1st April 1974 or subsequently as respects the whole of their district replace each existing scheme.

(5) In this article any reference to an existing rebate scheme or to an existing allowance scheme means a rebate scheme or, as the case may be, an allowance scheme of an existing authority which, would, if the 1972 Act had not been passed, have been in operation on 1st April 1974.

Anthony Crosland,
Secretary of State for the Environment.

27th March 1974.

John Morris,
Secretary of State for Wales.

27th March 1974.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order, which applies to England and Wales, makes transitional provisions in relation to—

- (a) certain subsidies payable to local authorities under Part I of the Housing Finance Act 1972 (“the 1972 Act”); and
 - (b) claims for payment of subsidies under Part I of the 1972 Act; and
 - (c) rent rebates and rent allowances under Part II of the 1972 Act,
- to take account of the new authorities established by the Local Government Act 1972.

SI 1974/594
ISBN 0-11-040594-3

