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STATUTORY INSTRUMENTS

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**1976 No. 246**

**The Local Government Area Changes Regulations 1976**

**Property, liabilities, contracts, etc., notices and proceedings**

**62.**—(1) Nothing in this regulation shall apply to—

- (a) property held for the purposes of, and 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 to, any charitable trust;
- (b) any property specified in relation to this sub-paragraph in the order, and 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,

and nothing in paragraph (2) shall apply to property held for the purposes of, and 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 to the functions of any authority in relation to smallholdings and cottage holdings.

(2) Subject to the provision of paragraph (1)—

- (a) all property vested in an authority described in column (1) of the table in Part I of Schedule 6 or in any extension thereof made in the order for the purposes of this paragraph and specified in respect of such authority in column (2) (whether by reason of its inclusion in any description of matters or particularly), and all liabilities attaching to the said authority in respect of any such property, shall by virtue of this paragraph be transferred to and vest in or attach to the authority specified in respect of such property in column (3);
- (b) all other liabilities attaching to an authority described in the said column (1) and within any description of matters specified in respect of such authority in column (2) shall by virtue of this paragraph be transferred to and attach to the authority specified in respect of such description of matters in column (3);
- (c) 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 the said column (1) in respect of any property or liability transferred by sub-paragraph (a) or (b) shall be of full force and effect in favour of, or against, the authority to whom such property or liability is transferred;
- (d) all other 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 the said column (1) and within any description of matters specified in respect of such authority in column (2) shall be of full force and effect in favour of, or against, the authority specified in respect of such description of matters in column (3);
- (e) any action or proceeding or any cause of action or proceeding, pending or existing at the appointed day, by, or against, an authority described in the said column (1) in respect of any property or liability transferred by sub-paragraph (a) or (b) shall not be prejudicially affected by reason of the order, and may be continued, prosecuted and enforced by, or against, the authority to whom such property or liability is transferred;

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- (f) any other action or proceeding or any other cause of action or proceeding, pending or existing at the appointed day, by, or against, an authority described in the said column (1) and within any description of matters specified in respect of such authority in column (2) shall not be prejudicially affected by reason of the order, and may be continued, prosecuted and enforced by, or against, the authority specified in respect of such description of matters in column (3).

Paragraphs 1 to 7 in Part I of Schedule 6 shall have effect in relation to the table in that Part.

Part II of Schedule 6 shall have effect in the application of this paragraph.

(3) Subject to the provisions of paragraphs (1) and (2)—

- (a) all property and liabilities vested in or attaching to a dissolved authority shall by virtue of this paragraph be transferred to and vest in or attach to the residuary successor of that authority;
- (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, a dissolved authority shall be of full force and effect in favour of, or against, the residuary successor of that authority;
- (c) any action or proceeding or any cause of action or proceeding, pending or existing at the appointed day, by, or against, a dissolved authority shall not be prejudicially affected by reason of the order, and may be continued, prosecuted and enforced by, or against, the residuary successor of that authority.

(4) The authority to whom any property other than land is transferred by paragraph (2) or (3) (otherwise than by its particular inclusion in an extension of the table in Part I of Schedule 6 made in the order for the purposes of paragraph (2)) may by resolution agree—

- (a) that the property shall not be transferred; or
- (b) that it shall be transferred to any other authority named in the resolution,

and in the case of (b) sub-paragraph (a) of paragraph (2) in so far as it relates to liabilities, and sub-paragraphs (c) and (e) thereof, shall apply accordingly.

- (a) (5) (a) Subject to sub-paragraph (b), any interest in any property or any liability transferred by paragraph (2) or (3) to the authority for any county, district, London borough, parish or community, or for Greater London, the City, the Inner Temple or the Middle Temple, shall be held or discharged by them in respect of such area as existing on and after the appointed day.

(b) Sub-paragraph (a)—

- (i) shall not apply in respect of any interest in any property or any liability which by reason of agreements made (or having effect as if made) by the transferor authority falls to be held or discharged in respect of any specified area; and
- (ii) shall have effect subject to the provision of subsections (4) and (5) of section 248 of the Local Government Act 1972 (freemen and inhabitants of boroughs existing prior to 1st April 1974).

(6) Any byelaws in force for the regulation of any property transferred by paragraph (2) or (3) shall have effect as if they had been made by the authority to whom such property is transferred (but in the case of property transferred to a parish meeting or parish trustees only if such byelaws could have been made by the parish meeting).

(7) Any provision of any local Act or of any order made under any Act which applies to any property transferred by paragraph (2) or (3) to any authority shall have effect with the substitution of references to that authority for any references to (or having effect as references to) the authority from whom the property is transferred.

(8) Any authorisation of the borrowing of money in force in respect of any property or liability transferred by paragraph (2) or (3) to any authority may, subject to the terms applicable thereto, be acted on by such authority.

(9) 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 paragraph (2) or (3) to any authority shall have effect as if it had been issued to such authority, 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.

(10) 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 paragraph (2) or (3).

(11) Where parts of any land are in consequence of paragraph (2) or (3), or of both such paragraphs, vested in two different authorities, and any easement or other right over one part is required to enable the other part to be used, the authority in whom the said other part is vested may within the 6 months following the appointed day serve notice on the authority in whom the said one part is vested specifying such easement or other right and requiring the authority in whom the said one part is vested to grant the same to them on terms specified in the notice.

Any question—

- (a) whether any easement or other right is required to enable the said other part to be used; or
- (b) as to the terms on which any easement or other right shall be conferred,

shall be determined by the decision of a person agreed on by the authorities or in default of agreement appointed by the Secretary of State.

(12) The provision made by this regulation is without prejudice to—

- (a) any agreement which may be made for payment in respect of any property transferred by paragraph (2) or (3);
- (b) any agreement which may be made under section 68 of the Local Government Act 1972, or arbitration in default of such agreement—
  - (i) as to the use of any property transferred as aforesaid;
  - (ii) in relation to any matter not so transferred.