

1990 No. 1024

LOCAL GOVERNMENT, ENGLAND AND WALES

**The West Yorkshire Residuary Body (Transfer of
Property etc.) Order 1990**

<i>Made - - - -</i>	<i>8th May 1990</i>
<i>Laid before Parliament</i>	<i>10th May 1990</i>
<i>Coming into force</i>	<i>31st May 1990</i>

Whereas the West Yorkshire Residuary Body, acting pursuant to section 67(1)(a) and (2) of the Local Government Act 1985(a), has submitted proposals to the Secretary of State for the transfer of certain property, functions, rights and liabilities to local authorities, and he has decided to give effect to those proposals:

Now, therefore, the Secretary of State in exercise of the powers conferred on him by sections 67(3) and 101 of that Act, and of all other powers enabling him in that behalf, hereby makes the following Order:—

Citation, commencement and interpretation

1.—(1) This Order may be cited as the West Yorkshire Residuary Body (Transfer of Property etc) Order 1990 and shall come into force on 31st May 1990.

(2) In this Order —

“the 1985 Act” means the Local Government Act 1985;

“the 1989 Act” means the Local Government and Housing Act 1989(b);

“the abolished council” means the former West Yorkshire County Council;

“the county” means the county of West Yorkshire;

“expenditure” in relation to Wakefield and Bradford includes administrative expenses properly incurred by them;

“the local council” means the council of a district in the county and in relation to land means the council of the district in which the land is situated;

“the Residuary Body” means the West Yorkshire Residuary Body;

“Wakefield” means the City of Wakefield metropolitan district council;

“Bradford” means the City of Bradford metropolitan council; and

“the transfer date” means 1st June 1990.

(3) For the purpose of any provision of this Order, other than article 4, which requires the payment or recovery of sums in the appropriate proportions, —

(a) the appropriate proportion in relation to any council is the proportion equal to the proportion which the population of the area of that council bears to the population of the county; and

- (b) the population of an area means its relevant population as calculated in accordance with section 69 of the Local Government Finance Act 1988(a).

Transfer of property, etc.

2.—(1) On the transfer date –

- (a) all interests of the Residuary Body in land which is the subject of an agreement for its disposal or option for its purchase shall vest in Wakefield; and
(b) subject to paragraph (2), all interests of the Residuary Body in any other land shall vest in the local council.

(2) The offices of the Residuary Body at Pearl Assurance House, Queen Street, Wakefield shall not transfer under paragraph (1) (b) above.

(3) Subject to paragraph (4), all rights and liabilities of the Residuary Body acquired or incurred in connection with, and all records relating exclusively to, land or interests in land transferred by paragraph (1) shall vest in the council to which it is so transferred.

(4) Where prior to the transfer date the Residuary Body has disposed of any land subject to a covenant that the Residuary Body shall receive a proportion of any subsequent increased development value, the benefit of that covenant shall vest in Wakefield.

(5) Any right of the Residuary Body to receive grants (other than block grant) or subsidies from the Exchequer or from the European Commission shall vest in Wakefield.

(6) Any liability of the Residuary Body to repay such grants or subsidies as are mentioned in paragraph (5) shall vest in Wakefield, except where the liability to repay is associated with land which is by paragraph (1)(b) transferred to another local council in which case the liability to repay shall vest in that other local council.

(7) In each financial year commencing with the financial year beginning 1st April 1990 Wakefield shall pay to each of the other local councils the appropriate proportion of

- (a) an amount equal to Wakefield's net revenue receipts from any land or interest vested by paragraphs (1)(a), or (4);
(b) an amount equal to Wakefield's net capital receipts in respect of any interest so vested or the disposal of any such interest or of any land so vested; and
(c) an amount equal to Wakefield's net grant and subsidy.

(8) In the preceding paragraph –

- (a) "net revenue receipts" means revenue receipts in the year in question after deducting the aggregate amount of expenditure incurred by Wakefield in that year in connection with interests vested by paragraph (1) or (4);
(b) "net capital receipts" means capital receipts in the year in question after deducting any amount by which net revenue receipts are a negative amount; and
(c) "net grant and subsidy" means all grants and subsidies received by Wakefield by virtue of paragraph (5) in the year in question, less any amount repaid by Wakefield under paragraph (6) in that year.

(9) The balance of the net capital and revenue receipts and of the net grant or subsidy shall be retained by Wakefield.

Compensation and superannuation matters

3.—(1) All the functions of the Residuary Body in relation to any contract of employment with the abolished council or a contract of employment with the Residuary Body terminating on or before the transfer date and all rights and liabilities of that Body which arise from any such contract shall on the transfer date become functions of, or vest in, Bradford.

(2) Without prejudice to the generality of paragraph (1), the functions of the Residuary Body conferred by regulation 3(1) of the Local Government Superannuation (Miscellaneous Provisions) Regulations 1986(b) shall vest in Bradford.

(a) 1988 c.41. Section 69 was amended by the Local Government and Housing Act 1989, Schedule 5, paragraph 50. (b) S.I. 1986/380.

(3) All the functions of the Residuary Body relating to the making of payments under the Local Government Reorganisation (Reduction of Redundancy Payment Cases) Scheme 1986(a) shall on the transfer date become functions of, or transfer to, Bradford.

(4) Regulation 3(3) of the Regulations mentioned in paragraph (2) above shall apply to the exercise by Bradford of any discretionary function transferred by paragraph (1) as if references to the appropriate residuary body were references to Bradford.

(5) All rights and liabilities of the Residuary Body in relation to the West Riding Mental Hospital Board Continuing Pensions Scheme shall on the transfer date vest in Bradford.

Block Grant

4.—(1) Any payment which by virtue of any provision of Part VI of the Local Government Planning and Land Act 1980(b) (“the 1980 Act”) would but for this Order have fallen, by virtue of section 81 of the 1985 Act, to be made by or to the Residuary Body shall be made by or to the local councils in the appropriate proportions.

(2) For the purposes of paragraph (1) –

(a) “the appropriate proportions” shall be construed in accordance with article 1(3)(a); and

(b) the population of an area shall be taken to be the number estimated by the Registrar General and certified by him to the Secretary of State by reference to 30th June 1983.

(3) Any information, notice or request under section 65, 66 or 67 of the 1980 Act(c) which but for this article would have fallen to be given or made by or to the Residuary Body shall be given or made by or to Wakefield.

Transfer of proceedings

5.—(1) Subject to paragraphs (2), (3) and (4), on the transfer date in any proceedings before any court or tribunal to which the Residuary Body is a party, Wakefield shall be substituted for the Residuary Body.

(2) In any such proceedings as are mentioned in paragraph (1) but which relate to any matter which by this Order or otherwise is or has been transferred to Bradford, Bradford shall be substituted for the Residuary Body.

(3) In any such proceedings as are mentioned in paragraph (1) but which relate to land which by this Order or otherwise is or has been transferred to a local council, that local council shall be substituted for the Residuary Body.

(4) Nothing in this article shall affect the conduct of proceedings in the High Court of Justice, Chancery Division, under reference CH 1989 Y No. 4658 to which the Residuary Body shall remain a party.

Transfer of copyright

6. The copyright of the Residuary Body in the collection of aerial photographs of West Yorkshire held by the Royal Commission on the Historical Monuments of England shall on the transfer date vest in Wakefield.

Transfer of rights and liabilities

7.—(1) Subject to the preceding provisions of this Order and to paragraph (2), on the transfer date –

(a) all rights and liabilities and any records of the Residuary Body relating to any function which by virtue of this Order or otherwise becomes or has become a function of Bradford shall vest in Bradford; and

(b) all remaining rights, liabilities and records of the Residuary Body shall vest in Wakefield to be held for the benefit of, or discharged on behalf of, all the local councils.

(a) Made under section 59(3) of the Local Government Act 1985. (b) 1980 c.65. (c) Section 65 was substituted by paragraph 4 of Schedule 4 to the Local Government Finance Act 1987 (c.6).

- (2) Paragraph (1) shall not apply to any right or liability of the Residuary Body –
- (a) in relation to any contract of employment other than those mentioned in article 3(1);
 - (b) arising in respect of the proceedings referred to in article 5(4); or
 - (c) in relation to Yorkshire Enterprise Limited or any of its subsidiary companies.
- (3) For the purposes of paragraph (2)(c) 'subsidiary companies' shall be construed in accordance with section 736 of the Companies Act 1985(a).

Consequential financial provisions

8.—(1) Any net capital receipts paid to a local council pursuant to article 2(7)(b) and the balance of the net capital receipts retained by Wakefield pursuant to article 2(9) shall be treated for the purposes of Part IV of the 1989 Act (revenue accounts and capital finance of local authorities) as capital receipts of the relevant council.

(2) Any net grant or subsidy paid to a local council pursuant to article 2(7)(c) and the balance of the net grant and subsidy retained by Wakefield pursuant to article 2(9) shall be treated for the purposes of Part IV of the 1989 Act as capital receipts of the relevant council.

(3) The reserved part of the net capital receipts paid to a local council pursuant to article 2(7)(b) and of the balance of the net capital receipts retained by Wakefield pursuant to article 2(9) shall be 50 per cent.

(4) The reserved part of the net grant and subsidy paid to a local council pursuant to article 2(7)(c) and of the balance of the net grant and subsidy retained by Wakefield pursuant to article 2(9) shall be 100 per cent.

(5) Sums received by Wakefield in respect of the disposal of assets vested in them by articles 2(1)(a) and 2(4) shall not be treated as capital receipts for the purposes of Part IV of the 1989 Act.

(6) Any lease transferred by virtue of this Order shall be excluded from section 48 of the 1989 Act (credit arrangements).

Consequential administrative arrangements

9.—(1) On or before 31st October in the financial year commencing on 1st April 1990 and on or before 30th June in any subsequent financial year, Wakefield shall notify every other local council of its estimate of the amount to be paid to that council in the current financial year by way of net capital receipts under article 2(7)(b).

(2) Wakefield shall send a copy of the notifications sent under paragraph (1) to the Secretary of State and shall advise him of any payments made by way of net capital receipts under article 2(7)(b).

(3) Wakefield shall –

- (a) on or before 31st October in the financial year commencing on 1st April 1990 and on or before 30th June in any subsequent financial year provide the Secretary of State with an estimate of the amount they anticipate they will retain in the current financial year by way of net capital receipts under article 2(9); and
- (b) notify the Secretary of State of any such amounts retained.

Apportionment

10.—(1) All sums realised by Wakefield or Bradford by or in pursuance of the transfer by articles 5, 6 and 7 of this Order of any property or rights shall after deduction of any relevant expenditure be apportioned among the local councils; and Wakefield or, as the case may be, Bradford, shall, not later than the end of the financial year in which such sums are received, pay the appropriate proportion to each of the other local councils and shall retain the balance.

(a) 1985 c.6.

(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 or expenditure incurred under article 2(6) exceeds any amount received under article 2(5), that excess expenditure shall be apportioned among the local councils; and the appropriate proportion shall be recoverable by Wakefield or Bradford, as the case may be, from each of the other local 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.

(4) Regulation 12 (apportionment of certain costs) of the Local Government Reorganisation (Compensation) Regulations 1986(a) shall not apply to any expenditure which is recoverable by virtue of paragraph (2).

Loan Debt

11.—(1) The Local Government Reorganisation (Debt Administration) (West Yorkshire) Order 1986(b) is hereby revoked subject to the following savings –

- (a) article 3 of that Order (discharge of certain residuary functions by the designated council) shall continue to have effect; and
- (b) articles 9(4) and 9(6) of that Order (administrative arrangements) shall continue to have effect until 1st July 1990.

(2) Liabilities vested in the designated council by article 3 of the Order referred to in paragraph (1) which have been transferred by deed to a local council shall be treated as money borrowed by that local council for the purposes of Part IV of the 1989 Act.

Continuity of the exercise of functions

12.—(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 Wakefield or Bradford shall so far as is required for continuing its effect after the transfer date have effect as if done by or in relation to Wakefield or Bradford, as the case may be.

(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; but nothing in this Order shall be construed as transferring any contract of employment.

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

Continuity of employment in certain cases

13. Where the employment by the Residuary Body of any person is terminated, and that termination is attributable to any provision of this Order, regulation 5 (continuity of employment) of the Local Government Superannuation (Local Government Reorganisation) Regulations 1985(c) shall apply as if, for the purposes of paragraph (1)(b)(ii), the termination were not attributable to an Order under section 67(3) of the 1985 Act.

Complaints of maladministration by Residuary Body

14.—(1) The Parliamentary Commissioner may investigate or, as the case may be, continue to investigate a complaint of maladministration by the Residuary Body arising in relation to any interests in land, property or other matter transferred by this Order.

(2) In relation to any such investigation begun or continued after the transfer date, the Parliamentary Commissioner Act 1967(d) shall apply as if for any reference to the proper officer of the Residuary Body there were substituted –

(a) S.I. 1986/151. (b) S.I. 1986/471. (c) S.I. 1985/1515. (d) 1967 c.13; applied to residuary bodies by paragraph 11 of Schedule 13 to the Local Government Act 1985.

- (a) where the complaint relates to the exercise of a function which by virtue of this Order becomes a function of Bradford, a reference to the proper officer of Bradford;
- (b) where the complaint relates to land which, by virtue of this Order vests in a local council, a reference to the proper officer of that council; or
- (c) in any other case, a reference to the proper officer of Wakefield

and as if any specified action had been taken by Bradford, or, as the case may be, by the local council or by Wakefield.

Disputes

15. In the event of a dispute between any of the local councils as to the amount of any expenditure recoverable by Bradford or Wakefield pursuant to this Order, the matter shall be determined by an arbitrator appointed by the Secretary of State; and section 31 of the Arbitration Act 1950(a) shall have effect in relation to the arbitration as if it were an arbitration to which that section applies.

8th May 1990

Chris Patten
Secretary of State for the Environment

EXPLANATORY NOTE

(This note is not part of the Order)

This Order gives effect to proposals of the West Yorkshire Residuary Body for the transfer of certain property, functions, rights and liabilities to local authorities.

Article 2 provides for property which the Residuary Body has agreed to sell, or which is the subject of an option to purchase, to transfer to the council of the metropolitan district of Wakefield; and for other property to vest in the council of the district in which it is situated. Article 2 also provides for the transfer of associated rights and liabilities and for the distribution of money attributable to the disposal of property transferred to Wakefield.

Article 3 provides for the transfer of remaining functions (in relation to contracts of employment and pensions) to Bradford City Council except in relation to those employees who remain in employment with the Residuary Body on and after the transfer date.

Article 4 provides for payment or recovery of the former West Yorkshire County Council's entitlement to block grant to be made to or from the district councils in the county.

Article 5 provides for the transfer of proceedings and article 6 provides for the transfer of copyright in certain photographs. Article 7 transfers with certain specific exceptions the remaining rights and liabilities of the Residuary Body to Bradford or Wakefield. Article 8 makes consequential financial provision and article 9 provides consequential administrative arrangements.

Article 10 makes general provision for apportioning among the councils in the county the sums received and paid by Wakefield or Bradford. Article 11 makes provision in relation to certain loan debt. Article 12 provides for continuity in the exercise of functions, and article 13 for the treatment of the employment of the Residuary Body's staff who take up other local government service as continuous for superannuation purposes. Article 14 provides for the handling of complaints of maladministration on the part of the Residuary Body and article 15 for the determination of disputes.

(a) 1950 c.27; section 31 was repealed in part by the Arbitration Act 1975 (c.3), section 8(2), and amended by the Arbitration Act 1979 (c.42), section 7(1).

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