
STATUTORY INSTRUMENTS

2006 No. 3118

The Luton Dunstable Translink Order 2006

PART 5

MISCELLANEOUS AND GENERAL

Power to transfer undertaking

42.—(1) Notwithstanding any powers that may be exercised by the Council under section 10 of the Transport Act 1968⁽¹⁾, the Council may with the consent of the Secretary of State enter into and carry into effect an agreement to sell, lease, charge or otherwise dispose of, on such terms and conditions as the Council thinks fit, the whole or any part of the undertaking comprised within Translink and any land held by the Council for the purpose of, or in connection with, Translink.

(2) Without prejudice to the generality of paragraph (1) a transfer agreement under paragraph (1) may provide for—

- (a) the construction, maintenance, use and operation of Translink or any part thereof by another person and as to any other matter incidental or subsidiary thereto or consequential thereon; and
- (b) the vesting in another person of all or any of the functions of the Council under this Order.

(3) A transfer agreement may be entered into so as to transfer and vest such property and functions in any other person for such period as may be specified in that agreement or for so long as the agreement remains in force and where such an agreement is entered into references in this Order to the Council shall, to the extent that the agreement so provides, have effect as references to the transferee.

(4) Without prejudice to the powers of the Council to terminate or vary a transfer agreement, a transfer agreement may specify circumstances in which that agreement shall cease to have effect before the expiry of any period specified in any such agreement.

(5) A transfer agreement may include such supplementary, incidental, transitional and consequential provisions as the Council may consider to be necessary or expedient.

(6) Without prejudice to the generality of paragraph (1), a transfer agreement may provide for the exercise by a transferee, or the Council and a transferee jointly, of all or any of the powers of the Council (whether under this Order or under any other enactment) in respect of Translink or any part thereof and for the transfer to and vesting in a transferee, or the Council and a transferee jointly, of those works or any part thereof together with the rights and obligations of the Council in relation thereto.

(7) Subject to paragraph (1), the exercise by a transferee or the Council and a transferee jointly, of any of the powers of this Order shall be subject to all statutory and contractual provisions in relation thereto as would apply if those powers were exercised by the Council alone and accordingly those provisions with any necessary modifications shall apply to the exercise of such powers by another person, or by the Council and a transferee jointly.

(1) 1968 c. 73.

(8) Upon expiry of any period specified in a transfer agreement in accordance with paragraph (3), or upon a transfer agreement being terminated or otherwise ceasing to have effect, the functions and property of the Council which were transferred by that agreement shall, by virtue of this paragraph but subject to the effect of any further transfer agreement entered into by the Council, be revested in the Council, but such revesting shall not make the Council subject to any of the liabilities of the transferee other than any continuing duties imposed by this Order.

(9) Notwithstanding anything in any transfer agreement, any duty arising under this Order to complete the construction of, or to maintain or operate any works in respect of which the Council's functions are transferred by a transfer agreement, together with such rights and property as are required for the discharge of that duty, shall revert to the Council in the event of the abandonment of those works or in the event that the works are not completed within 10 years of the commencement of construction of those works.

(10) Unless the transfer agreement otherwise provides, if a duty to complete the construction of, to maintain or operate any works reverts to the Council under paragraph (9), the transfer agreement shall terminate and all the functions and property of the Council which were transferred by that agreement shall be revested in the Council in accordance with paragraph (8).

(11) Within 21 days of the revesting in the Council of any property or functions pursuant to paragraph (8) or (10) or the reversion to the Council of any duty, rights or property pursuant to paragraph (9), the Council shall serve notice on the Secretary of State, providing him with particulars of the revesting or reversion concerned.

(12) For the avoidance of doubt nothing in section 15(2) of the Transport Act 1968 (restriction or alteration of charges) shall apply in relation to the operation of the Translink by any person other than the Council, but this paragraph is without prejudice to any provision with respect to charges that may be made in an agreement under paragraph (1) or (2).

(13) In this article, unless the context otherwise requires—

“functions” includes powers, duties and obligations;

“transferee” means a person to whom all or any of the property or functions of the Council have been transferred by virtue of a transfer agreement; and

“transfer agreement” means an agreement entered into under paragraph (1).