
STATUTORY INSTRUMENTS

2008 No. 625

The Local Government (Parishes and Parish Councils) (England) Regulations 2008

PART 2

PROPERTY, RIGHTS AND LIABILITIES

Transfer of property, rights and liabilities

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

- (a) any property held by an authority, as sole trustee, exclusively for charitable purposes;
- (b) any rights or liabilities of an authority in respect of such property.

(2) Subject to paragraph (5), all property vested in, and all rights and liabilities acquired, accrued or incurred by, an authority described in column (1) of the Table below and specified in relation to that authority in column (2) shall transfer to and vest in or, as the case may be, become rights and liabilities of, the authority specified in column (3).

Table

<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
<i>Transferor authority</i>	<i>Specified property, rights and liabilities</i>	<i>Transferee authority</i>
An abolished authority	Property, rights and liabilities of the abolished authority which related to the transferred area	The transferee authority to which the transferred area transfers
The council of a parish which is subject to an alteration in its administrative area consisting of the loss of a transferred area	Property, rights and liabilities of that council which relate to the transferred area	The council of the transferee parish or, if there is no such parish, or the parish has no council, the principal council within whose area the transferred area lies

(3) All contracts, deeds, bonds, agreements, licences and other instruments subsisting immediately before the order date in favour of, or against, and all notices in force immediately before that date which were given, or have effect as if given, by or to a transferor authority in respect of any transferred area shall be of full force and effect in favour of, or against, the transferee authority.

(4) Any action or proceeding, or any cause of action or proceeding, pending or existing at the order date by or against a transferor authority in respect of any transferred property may be continued,

prosecuted or enforced, as the case may be, by or against the authority to which such property is transferred.

(5) Where, in relation to an abolished authority, there is more than one transferee authority an amount equal to the appropriate proportion of the balances of the abolished authority as shown immediately before the order date in the authority's capital and revenue accounts shall be transferred to the capital and revenue accounts, respectively, of each of the transferee authorities.

(6) In paragraph (5), the "appropriate proportion", in relation to a transferee authority, means the same proportion as the population of the area transferred to that authority bears to the population of the area of the abolished authority; and the population of an area shall be taken to be the number estimated by the proper officer of the principal council within whose area of the abolished authority is situated by reference to the day immediately before the order date.

(7) For the purposes of this regulation, property, rights and liabilities of an authority are to be treated as property, rights and liabilities in relation to a transferred area if—

- (a) in the case of land, it is situated in, or held exclusively for the purposes of, or in connection with, the exercise of functions in, or in relation to, the area;
- (b) in the case of liabilities, they are liabilities incurred exclusively in respect of the area;
- (c) in the case of contracts, deeds, bonds, agreements and other instruments, and notices, they relate exclusively to the area;
- (d) in the case of actions and proceedings and causes of action or proceedings, they relate exclusively to the area.

(8) In this regulation "transferred property" means any property, rights or liabilities transferred by virtue of this regulation.

Charitable property, etc

8.—(1) In this regulation—

"charity", "charity trustees", "company", "the court" and "trusts" have the same meanings as in the Charities Act 1993⁽¹⁾;

"charitable property" means property (of whatever description) which, immediately before the order date is held as sole trustee—

- (a) by an abolished authority; or
- (b) by a transferor authority other than an abolished authority, exclusively for charitable purposes; and

"relevant charity" means a charity other than a charity incorporated by charter of a company.

(2) Charitable property held by an abolished authority for the benefit of—

- (a) a specified area, or
- (b) the inhabitants of that area, or
- (c) any particular class or body of persons in that area,

shall, on the order date, vest (on the same trusts) in the transferee authority within whose area the whole or the greater part of that specified area is situated immediately before that date.

(3) Other charitable property held by an abolished authority shall, on the order date, vest (on the same trusts)—

- (a) in the transferee authority within whose area the whole or the greater part of the area of the abolished authority is situated immediately before that date; or

(1) 1993 c.10

- (b) if sub-paragraph (a) does not apply, in such one of the transferee authorities as may be agreed between them not later than three months before the order date or, in default of such agreement, in such transferee authority as the Charity Commission may determine.

(4) Where—

- (a) charitable property is held by a transferor authority which is not an abolished authority for any such benefit as is mentioned in paragraph (2); and
- (b) the whole or the greater part of the specified area so mentioned is situated within the transferred area,

that property shall, on the order date, vest (on the same trusts) in the transferee authority.

(5) Charitable property held as mentioned in paragraph (1)(b) which is not vested in accordance with paragraph (4) shall continue to be held by the transferor authority.

(6) Any rights and liabilities in respect of charitable property which vests in accordance with any of paragraphs (2) to (4) shall on the order date become rights and liabilities of the transferee authority in which that property vests.

(7) Where, immediately before the order date, any power with respect to a relevant charity is, under the trusts of the charity, or by virtue of any enactment, exercisable by a transferor authority in relation to a transferred area or by the holder of an office connected with such an authority, that power shall, on and after the order date, be exercisable by the authority in which property of the charity would have vested if it had been charitable property or, as the case may be, by the holder of the corresponding office connected with that authority or, if there is no such office, by the proper officer of that authority.

(8) References in paragraph (7) to a power with respect to a relevant charity do not include references to the powers of any person by virtue of being a charity trustee of the charity.

(9) Where, under the trusts of a relevant charity, the charity trustees immediately before the order date include—

- (a) an abolished authority;
- (b) the transferor authority in relation to a transferred area; or
- (c) the holder of an office connected with an authority mentioned in subparagraph (a) or (b),

on and after the order date those trustees shall include the authority in which property of the charity would have vested as mentioned in paragraph (7) or, as the case may be, the holder of the corresponding office connected with that authority or, if there is no such office, the proper officer of that authority.

(10) Nothing in this regulation shall affect any power of Her Majesty, the court of any other person to alter the trusts of any charity.

Land held or used for purposes of the Allotments Acts 1908 to 1950

9. Where immediately before the order date land in an area constituted as a parish by a reorganisation order—

- (a) is held by a principal council for any purpose of the Allotments Acts 1908 to 1950(2); or
- (b) is vested in a principal council and used for those purposes,

it shall on the order date transfer to and be vested in the parish council for that parish or, if there is no such council, the parish meeting for that parish.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.
