
STATUTORY INSTRUMENTS

1987 No. 2110

LOCAL GOVERNMENT, ENGLAND AND WALES

**The Local Government Reorganisation
(Pensions etc.) (South Yorkshire) Order 1987**

<i>Made</i>	- - - -	<i>7th December 1987</i>
<i>Laid before Parliament</i>		<i>11th December 1987</i>
<i>Coming into force</i>	- -	<i>1st January 1988</i>

The Secretary of State for the Environment, in exercise of the powers conferred on him by section 67(3) of the Local Government Act 1985(1), and of all other powers enabling him in that behalf, to effect transfers proposed to him under section 67(1)(a) of the Act, hereby makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Local Government Reorganisation (Pensions etc.) (South Yorkshire) Order 1987 and shall come into force on 1st January 1988.

(2) In this Order—

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

“the Authority” means the body established by article 2(1); and

“the Residuary Body” means the South Yorkshire Residuary Body.

Establishment of the South Yorkshire Pensions Authority

2.—(1) On 21st January 1988 there shall be established a body corporate known as the South Yorkshire Pensions Authority to receive the functions, property, rights and liabilities transferred by this Order.

(2) Schedule 1 shall have effect in relation to the Authority.

Transfer of pension and other functions

3. On 1st April 1988 the functions, property, rights and liabilities of the Residuary Body which are specified in Schedule 2 shall become the functions, property, rights and liabilities of the Authority.

(1) 1985 c. 51.

Reimbursement

4.—(1) The net expenditure of the Authority in any financial year shall be apportioned between the district councils in the county of South Yorkshire in proportion to the population of their districts, as that population is certified for the making of levies with respect to that year under section 74(2) of the 1985 Act (levies by residuary bodies); and the appropriate portions shall be recoverable by the Authority from each of those councils on written demand.

(2) Any such demand as is mentioned in paragraph (1) may be made quarterly with respect to the net expenditure of the Authority in the periods of 3 months beginning on 1st April, 1st July, 1st October and 1st January in any year; and the Authority may require a payment in advance and on account of a demand in relation to such a period (not exceeding its estimate of the amount of that demand) not earlier than one month before the period commences.

(3) In this article “net expenditure” means all expenditure and costs incurred by the Authority after deduction of receipts (if any), not being expenditure or costs which may be paid out of, or receipts which fall to be credited to, the superannuation fund maintained by the Authority under the Local Government Superannuation Regulations 1986⁽²⁾.

(4) Notwithstanding any winding-up of the Residuary Body pursuant to section 67 of the 1985 Act, the functions of the Registrar General and the Secretary of State under section 74(2) of that Act shall continue with respect to the certification of population for the purposes of the reimbursement of the Authority under this article.

(5) For the purposes of any other enactment (including in particular section 34 of the Local Loans Act 1875⁽³⁾) any sum demanded or required under this article shall be treated as money to be raised out of a rate.

Continuity of the exercise of functions

5.—(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 matter transferred by article 3 shall, so far as is required for continuing its effect on or after 1st April 1988, have effect as if done by or in relation to the Authority.

(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 it shall not be construed as transferring an employee of the Residuary Body to the employment of the Authority.

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

Other supplementary provision

6.—(1) With effect from 1st April 1988 the Local Government Superannuation Regulations 1986 are amended—

(a) by inserting after paragraph (7A) of regulation C1—

“(7B) In relation to a pensionable employee of a body the greater part of whose area falls within the metropolitan county of South Yorkshire, the appropriate superannuation fund is the fund maintained by the South Yorkshire Pensions Authority.”;

(b) in regulation C1(8), by substituting for the words “(1) to (6)” the words “(1) to (7B)”;

(c) in regulation P1(1), by inserting after the words “district council” the words “or the South Yorkshire Pensions Authority”; and

(2) S.I.1986/24, amended by S.I. 1986/380, 1987/293 and 1579.

(3) 1875 c. 83.

- (d) in regulation P3(10), by inserting after the definition of “single holding”—
- ““statutory borrowing power” includes a power to borrow under an instrument made under a statute;”.
- (2) Without prejudice to the generality of article 5 (continuity of the exercise of functions)—
- (a) any admission agreement within the meaning of the Local Government Superannuation Regulations 1986 in force immediately before 1st April 1988 whereby employees of any body were, or could become, admitted employees participating in the benefits of the superannuation fund maintained under those Regulations by the Residuary Body shall be of full force and effect in favour of, or against, the Authority;
- (b) where a person has ceased to contribute to that fund and has not become a contributor to any other superannuation fund maintained under those Regulations, the transferred fund shall on and after 1st April 1988 be deemed to be the fund to which he was last a contributor; and
- (c) on and after 1st April 1988 the Authority is to be treated as being the previous fund authority for the purposes of Part Q of those Regulations in place of the Residuary Body.
- (3) Section 61(5) of the 1985 Act shall continue to have effect, so that no liability to reimburse the Authority in respect of any payment made by it shall attach to the Secretary of State, the Arts Council of Great Britain or the Historic Buildings and Monuments Commission for England where no liability to reimburse the Residuary Body would have attached to them if this Order had not been made and the payments concerned had been made by it; and paragraphs 64A and 64B of Schedule 2 to the Pensions (Increase) Act 1971(4) shall continue to have effect as if pensions payable by the Authority were payable by the Residuary Body.

7th December 1987

Nicholas Ridley
Secretary of State for the Environment

(4) 1971 c. 56; paragraphs 64A and 64B of Schedule 2 were inserted by the Local Government Act 1985, section 61(2).

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SCHEDULE 1

Article 2

SOUTH YORKSHIRE PENSIONS AUTHORITY

1.—(1) The Authority shall consist of members of the constituent councils appointed by those councils to be members of the Authority.

(2) The constituent councils are the councils of the districts in the county of South Yorkshire.

(3) The number of members to be appointed by each constituent council to the Authority are as follows—

Constituent Council	Number of members to be appointed
Barnsley	2
Doncaster	3
Rotherham	2
Sheffield	5

(4) As soon as practicable after receiving notice from a constituent council under paragraph 2(1) or under the provisions of the 1985 Act applied by paragraph 7 that it has made or terminated an appointment to the Authority, the Authority shall give public notice of the fact that the appointment has been made or terminated and of the name of the person concerned.

2.—(1) It shall be the duty of each constituent council to appoint its first members by 21st January 1988 by notice of appointment given to the Residuary Body.

(2) The first meeting of the Authority shall be held on or before 1st February 1988 and shall be treated as its annual meeting for the year 1988.

(3) Section 86(2) to (6), (7)(b) and (8) of the 1985 Act (procedure for first meeting) shall have effect as if—

- (a) references to a new authority were references to the Authority;
- (b) references to the proper officer of the relevant council were references to an officer of the Residuary Body authorised by it for the purposes of this paragraph;
- (c) the reference to the standing orders for the regulation of the proceedings and business of the relevant council were a reference to the standing orders of the South Yorkshire County Council in effect immediately before its abolition under the 1985 Act; and
- (d) the reference to section 86(1) were a reference to sub-paragraph (2) above.

(4) Schedule 12 to the Local Government Act 1972(5) (meetings and proceedings of local authorities) as applied by paragraph 3(o) below shall have effect subject to this paragraph, and in particular paragraph 4(2) of that Schedule shall not require notice of the first meeting of the Authority to be published at its offices or summonses to attend the meeting to be signed by the proper officer of the Authority.

3. Subject as mentioned below, the following provisions of the Local Government Act 1972(6) shall have effect as if references to a joint authority included references to the Authority—

- (a) section 70 (restriction on promotion of Bills for changing local government areas);
- (b) section 80(1)(a) and (2)(b) (disqualification for election and holding office);

(5) 1972 c. 70; Schedule 12 was amended by the Local Government Act 1985, Schedule 14, paragraph 35 and the Local Government Act 1986 (c. 10), section 10(3).

(6) Relevant amendments to the provisions listed were made by the Local Government Act 1985, Schedule 14, Part I.

- (c) section 85(4) (failure to attend meetings);
- (d) section 86(2) (declaration of vacancy);
- (e) section 92(7) (proceedings for disqualification);
- (f) section 98(1A) (pecuniary interests);
- (g) section 99 (meetings and proceedings);
- (h) section 100J(1)(b) (access to information)(7);
- (i) section 101(13) (discharge of functions);
- (j) section 146A(1) (miscellaneous powers of local authorities), but not insofar as it applies to sections 121 or 143;
- (k) section 153(3) (application of capital moneys);
- (l) sections 176(3) and 177(1)(ac) and (2A) (allowances to members)(8);
- (m) section 223(2) (legal proceedings);
- (n) sections 224(2), 225(3), 228(7A), 229(8), 230(2), 231(4), 232(1A), 233(11) and 234(4) (documents and notices);
- (o) paragraphs 6A, 6B and 46 of Schedule 12 (meetings and proceedings)(9); and
- (p) paragraph 22(1) and (3) of Schedule 13 (borrowing and funds)(10), but not insofar as it applies to paragraphs 1(a), 2(1)(b) to (e), 5, 6, 8, 9, 12 to 15 and 18 of that Schedule.

4. Sections 82, 84(2) and 90 of the Local Government Act 1972(6) (validity of acts done by unqualified persons, resignation and term of office of person filling casual vacancy) shall have effect as if references to a person appointed under, or to an office under, Part IV of the 1985 Act included references to a person appointed under, or to an office under, this Order.

5. In relation to the Authority, section 175 of the Local Government Act 1972 (which has effect by virtue of paragraph 3(1)) shall apply to a conference or meeting convened by one or more local authorities for the purpose of discussing matters which in the Authority's opinion are relevant to its functions, and not to such a conference or meeting as is described in section 175(4).

6. Section 12(2)(aa) of the Local Government Finance Act 1982(11) (accounts subject to audit) and regulation 7(2)(aa) of the Accounts and Audit Regulations 1983(12) shall have effect as if references to a joint authority included references to the Authority.

7. The following provisions of the 1985 Act shall apply as if the Authority were a joint authority—

- (a) section 31 (replacement of members)(13);
- (b) section 32(1) to (7) (filling of vacancies)(13);
- (c) section 33 (balance of parties);
- (d) section 34 (chairman, vice-chairman and clerk);
- (e) section 35(1) and (2) (disqualification);
- (f) section 41 (questions on discharge of functions);

(7) Inserted by the Local Government (Access to Information) Act 1985 (c. 43), section 1(1).

(8) Section 177 (2A) was inserted by the Local Government Act 1986, Section 11(3).

(9) Paragraph 6A was substituted by the Local Government Act 1986, Section 10(3).

(10) Paragraph 22(1) was amended, and 22(3) inserted, by the Local Government Act 1985, Section 70.

(6) Relevant amendments to the provisions listed were made by the Local Government Act 1985, Schedule 14, Part I.

(11) 1982 c. 32, Section 12(2)(aa) was inserted by the Local Government Act 1985, Section 72(3).

(12) S.I. 1983/1761, amended by S.I. 1986/1271.

(13) Amended by the Local Government Act 1986, Section 10.

(13) Amended by the Local Government Act 1986, Section 10.

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- (g) section 72(1), (2) and (4) (accounts); and
- (h) section 73 (financial administration).

8. Subject as mentioned below, the following provisions**(14)** shall have effect as if references to a joint authority established by Part IV of the 1985 Act included references to the Authority—

- (a) section 11(4)(a) of the Trustee Investment Act 1961**(15)**;
- (b) section 85(2) of the General Rate Act 1967**(16)**;
- (c) section 86(1) of the Post Office Act 1969**(17)**;
- (d) section 3(2) of the Employers' Liability (Compulsory Insurance) Act 1969**(18)**;
- (e) section 1(4) of the Local Authorities (Goods and Services) Act 1970**(19)**;
- (f) section 144(2)(a) of the Road Traffic Act 1972**(20)**;
- (g) section 13(7)(f) of the Employment Agencies Act 1973**(21)**;
- (h) sections 25(1)(c) and 26(11)(b) of the Local Government Act 1974**(22)**;
- (i) regulation 1(3) of the Local Authority (Mortgages) Regulations 1974**(23)**;
- (j) section 44(1) of the Local Government (Miscellaneous Provisions) Act 1976**(24)**, but only insofar as it applies to sections 30, 38, 39 and 41 of that Act;
- (k) section 71 of the Race Relations Act 1976**(25)**;
- (l) section 14(cb) of the Rent Act 1977**(26)**;
- (m) section 64(6) of the Justices of the Peace Act 1979**(27)**;
- (n) sections 2(1)(ka) and 71(1)(j) of the Local Government, Planning and Land Act 1980**(28)**;
- (o) section 41(13)(e) of the Local Government (Miscellaneous Provisions) Act 1982**(29)**;
- (p) Paragraph 7(2)(a) of Schedule 1 to the Stock Transfer Act 1982**(30)**; and
- (q) sections 6(2) and 9(1)(a) of the Local Government Act 1986**(31)**.

9. Where, in consequence of the application of any enactments to the Authority by this Schedule, references are made to its area or to the area for which it is established, those references shall be construed as references to the county of South Yorkshire.

(14) Relevant amendments were made to the provisions listed by the Local Government Act 1985, Schedule 14, Part II.

(15) 1961 c. 62.

(16) 1967 c. 9.

(17) 1969 c. 48.

(18) 1969 c. 57.

(19) 1970 c. 39.

(20) 1972 c. 20.

(21) 1973 c. 35.

(22) 1974 c. 7.

(23) S.I. 1974/518, amended by S.I. 1986/282.

(24) 1976 c. 57.

(25) 1976 c. 74.

(26) 1977 c. 42.

(27) 1979 c. 55.

(28) 1980 c. 65.

(29) 1982 c. 30.

(30) 1982 c. 41.

(31) 1986 c. 10.

SCHEDULE 2

Article 3

FUNCTIONS, PROPERTY, RIGHTS AND LIABILITIES TRANSFERRED

1. Subject to paragraph 3, the functions, property, rights and liabilities which are transferred by article 3 are—

- (a) the functions of the Residuary Body as administering authority under the Local Government Superannuation Regulations 1986, together with the superannuation fund maintained by the Residuary Body and all property, rights and liabilities in respect of it;
- (b) the functions, rights and liabilities of the Residuary Body in respect of pensions payable by it otherwise than under those Regulations;
- (c) without prejudice to the foregoing, the functions, rights and liabilities which are vested in or fall to be discharged by the Residuary Body under or by virtue of section 61 of the 1985 Act (payment of pensions increases); and
- (d) any moneys or other property forming a fund maintained by the Residuary Body for the purposes of the functions referred to in sub-paragraphs (b) or (c).

2. In paragraph 1(b), references to pensions include references to—

- (a) allowances, grants or other benefits in respect of past service, death, injury or disease (whether of the pensioner or another person);
- (b) compensation under regulations made under section 24 of the Superannuation Act 1972(32); and
- (c) any other such compensation as is mentioned in section 8(1)(b) of the Pensions (Increase) Act 1971.

3.—(1) There shall not transfer under article 3 the functions of the Residuary Body in crediting a person with a period of additional service under regulation 5 of the Local Government (Compensation for Premature Retirement) Regulations 1982(33).

(2) There shall not transfer under article 3 any matter relating to the payment of compensation for loss of employment or loss or diminution of emoluments arising with respect to an employment with the Residuary Body unless that compensation is—

- (a) compensation under the Local Government (Compensation for Premature Retirement) Regulations 1982 payable in consequence of a person having been credited by that body with a period of additional service under regulation 5 of those Regulations;
- (b) compensation under Part II of the Local Government Reorganisation (Compensation) Regulations 1986(34) payable in consequence of a person being treated as having been credited with a period of additional service under regulation 3(2)(b)(i) of those Regulations, or compensation under Part III of those Regulations; or
- (c) compensation under rights preserved by section 53(3) of the 1985 Act which falls to be calculated by reference to a person having been credited with a period of additional service.

(3) There shall not transfer under article 3 any matter relating to the payment of compensation for loss of employment or loss or diminution of emoluments arising with respect to an employment with a body other than the Residuary Body if that compensation is—

- (a) compensation under Part VI of the Employment Protection (Consolidation) Act 1978(35) (including that Part as applied by section 59 of the 1985 Act) or Part II of the Local

(32) 1972 c. 11.

(33) S.I. 1982/1009, amended by S.I. 1984/740 and 1986/151.

(34) S.I. 1986/151.

(35) 1978 c. 44; Part VI was amended by the Employment Act 1980 (c. 42), Schedule 2, by the Employment Act 1982 (c. 46), Schedule 2, paragraph 6, Schedule 3, paragraph 2 and Schedule 4, and by the Wages Act 1986 (c. 48), section 27 and

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Government (Compensation for Redundancy and Premature Retirement) Regulations 1984(36);

(b) compensation under Part II of the Local Government Reorganisation (Compensation) Regulations 1986 which is not payable in consequence of a person being treated as having been credited with a period of additional service under regulation 3(2)(b)(i) of those Regulations; or

(c) compensation under rights preserved by section 53(3) of the 1985 Act, or under rights arising by virtue of section 59(4) of that Act, which does not fall to be calculated by reference to a person having been credited with a period of additional service.

(4) There shall not transfer under article 3 any matter relating to the making of payments under a scheme made pursuant to section 59(3) of the 1985 Act.

(5) There shall not transfer under article 3 any matter relating to the payment of compensation under paragraph 3(3) of Schedule 13 to the 1985 Act.

(6) There shall not transfer under article 3 any matter mentioned in paragraph 1(c) (payment of pension increases) in cases where the functions of the Residuary Body with respect to the payment of the pension by reference to which the relevant increase is payable are not transferred under that article.

(7) There shall not transfer under article 3 any matter mentioned in paragraph 1(d) (funds maintained by the Residuary Body) where the fund is maintained in whole or in part for the purposes of functions which are not transferred under that article.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order gives effect to proposals made by the South Yorkshire Residuary Body for the transfer on 1st April 1988 of the responsibility for pension and certain related compensation functions to a new body, the South Yorkshire Pensions Authority, which is established by the Order for the purpose (articles 2 and 3).

Article 4 provides for the reimbursement of the net expenditure of the new body by the district councils in the county of South Yorkshire, and article 5 makes supplementary and transitional provision for the continuity of the exercise of the transferred functions. Further supplementary provision is made by article 6, including necessary amendments to the Local Government Superannuation Regulations 1986.

Schedule 1 sets out the manner in which the new body is constituted, provides for the appointment and replacement of members, and deals with ancillary matters such as finance and administration. Schedule 2 describes the pension and compensation matters transferred. Subject to certain exceptions (paragraph 3 of Schedule 2), the relevant compensation matters concern compensation for loss of office or employment and loss or diminution of emoluments.

Schedule 4, paragraph 8; it also has effect in certain cases as modified by the Redundancy Payments (Local Government) (Modification) Order 1983 (S.I. 1983/1160, amended by S.I. 1985/1872).
(36) S.I. 1984/740.

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