

1974 No. 39

LOCAL GOVERNMENT, ENGLAND AND WALES

The Local Government (Children) Order 1974

<i>Made - - - -</i>	<i>7th January 1974</i>
<i>Laid before Parliament</i>	<i>21st January 1974</i>
<i>Coming into Operation</i>	<i>1st April 1974</i>

The Secretary of State for Social Services in relation to England and the Secretary of State for Wales, in relation to Wales, in exercise of their powers under section 254(1) of the Local Government Act 1972(a) and of all other powers enabling them in that behalf, hereby make the following order:—

1.—(1) This order may be cited as the Local Government (Children) Order 1974, and shall come into operation on 1st April 1974.

(2) This order shall not apply to Greater London.

2.—(1) In this order unless the context otherwise requires:—

“specified date” means 1st April 1974;

“person” shall include “child” and “ward of court”;

“dissolved authority” means the council of any county or county borough in England or Wales dissolved by section 1(10) or 20(6) of the Local Government Act 1972;

“successor authority” means the council of any non-metropolitan county or the council of any metropolitan district, or in Wales the council of a county, existing on and after the specified date.

“supervision order” means,

(i) in respect of such an order referred to in the table in article 3 of this order, an order made under the enactment specified in column 2 of the table opposite the relevant entry in column 3 of that table,

(ii) in respect of such an order referred to in article 9(2) of this order an order made under any enactment mentioned in column 2 of the table in article 3 of this order opposite items 4 or 12 thereof;

“Wales” means the area consisting of the counties established by section 20 of the Local Government Act 1972 (new local government areas in Wales), and “England” does not include any area included in any of those counties.

(2) In this order, unless the context otherwise requires, references to an enactment shall be construed as references to that enactment as amended extended or applied by or under any other enactment.

(3) The Interpretation Act 1889(a) shall apply to the interpretation of this order as it applies to the interpretation of an Act of Parliament.

3. Subject to the provisions of article 8 of this order, a person in the care of, detained by or under the supervision of a dissolved authority immediately before the specified date in pursuance of an order made by a court or by a power exercised by such an authority under an enactment specified in column 2 of the following table shall on the specified date be transferred to the care or supervision of the successor authority specified opposite thereto in column 3 of the said table.

TABLE

1	2	3
	Enactment under which person is in care or under supervision	Successor authority to whom person is transferred into care or under supervision
1	Section 1(1) of the Children Act 1948(b).	The successor authority in whose area the place from which the person was received into care is on the specified date situate.
2	Section 1(4) of the said Act of 1948	The successor authority in whose area the place of ordinary residence of the person as determined for the purpose of the said section 1(4) is on the specified date situate.
3	Section 1 of the said Act of 1948 as applied by section 7(4) of the Children Act 1958(c) or by section 43(3) of the Adoption Act 1958(d).	The successor authority in whose area the place from which the person was received into care is on the specified date situate.
4	Section 1(3)(b) of the Children and Young Persons Act 1969(e).	The successor authority which has succeeded to the local authority designated in the supervision order.
5	Section 1(3)(c) of the Children and Young Persons Act 1969.	The successor authority in whose area the person appears to reside or the place where the circumstances giving rise to the proceedings arose is on the specified date situate.
6	Section 2(5) of the Children and Young Persons Act 1969.	The successor authority in whose area the person appears to the court to reside, the place where the offence was committed or any circumstances arose in consequence of which the order is made, is on the specified date situate.

(a) 1889 c.63.

(d) 7 & 8 Eliz. 2. c.5.

(b) 1948 c.43.

(e) 1969 c 54.

(c) 1958 c.65.

1	2 Enactment under which person is in care or under supervision	3 Successor authority to whom person is transferred into care or under supervision
7	Section 29(3) of the Children and Young Persons Act 1969.	The successor authority in whose area the place where the person was arrested is on the specified date situate.
8	Section 30(1) of the Children and Young Persons Act 1969.	The successor authority providing or responsible for the community home specified in the direction.
9	Section 2(1)(e) of the Matrimonial Proceedings (Magistrates' Courts) Act 1960(a).	The successor authority in whose area the place where the person was in the opinion of the court resident immediately before being committed is on the specified date situate.
10	Section 2(1)(f)(ii) of the Matrimonial Proceedings (Magistrates' Courts) Act 1960.	The successor authority which has succeeded to the local authority specified in the matrimonial order.
11	Section 36 of the Matrimonial Causes Act 1965(b).	The successor authority in whose area in the opinion of the court making the order the place where the child was resident at the time of the order is on the specified date situate.
12	Section 37 of the Matrimonial Causes Act 1965.	The successor authority which has succeeded to the local authority designated in the supervision order.
13	Section 7(2) of the Family Law Reform Act 1969(c).	The successor authority in whose area in the opinion of the court making the order the place where the child was resident at the time of the order is on the specified date situate.
14	Section 7(4) of the Family Law Reform Act 1969.	The successor authority which has succeeded to the local authority designated in the supervision order.
15	Section 2(2)(a) of the Guardianship Act 1973(d).	The successor authority which has succeeded to the dissolved authority specified in the order.
16	Section 2(2)(b) of the Guardianship Act 1973.	The successor authority which has succeeded to the dissolved authority specified in the order.

(a) 1960 c. 48.
(d) 1973 c. 29.

(b) 1965 c. 72.

(c) 1969 c. 46.

4. Subject to the provisions of article 8 of this order, where under section 9(7) of the Adoption Act 1958 the director of social services of a dissolved authority is immediately before the specified date acting as guardian *ad litem* for the purpose of an application for an adoption order under that Act, the director of social services of the successor authority in whose area the place where the child who is the subject of the application was residing when the director of social services was appointed guardian *ad litem* shall, on and after the specified date be deemed to have been duly appointed guardian *ad litem* for that purpose.

5. Subject to the provisions of article 8 of this order, functions, powers, rights or liabilities vested in or attaching to a dissolved authority immediately before the specified date—

(a) by virtue of making or participating in arrangements for the adoption of an infant under the Adoption Agencies Regulations 1959(a) as amended(b), or

(b) by virtue of undertaking any obligation by way of guarantee under a deed of partnership or apprenticeship under section 47 of the Children and Young Persons Act 1963(c),

shall on the specified date, be transferred to and vested in or attached to the successor authority which has succeeded to the said dissolved authority.

6.—(1) Subject to the provisions of article 8 of this order, any right or liability vested in or attaching to a dissolved authority under section 1(4) of the Children Act 1948 immediately before the specified date in respect of a person who is or was in the care of another local authority, shall on the specified date be transferred to and vested in or attached to the successor authority in whose area the place of ordinary residence of the person, as determined for the purposes of the said subsection, is on the specified date situate.

(2) Any power which would have been exercisable by the council of a dissolved authority, had the Local Government Act 1972 not been enacted, to recover expenses under section 1(4)(b) of the Children Act 1948 from another local authority, in respect of a person who had been in their care but who is not a person to whom items 1 to 4 of the table in article 3 of this order applies, shall after the specified date be exercisable by a successor authority incurring expenses to which the said section 1(4)(b) applies.

7. A dissolved authority shall before the specified date notify each successor authority of—

(a) the persons who will, in accordance with the foregoing provisions of this order, be transferred to their care, detention or supervision on the specified date, and

(b) the functions, powers, rights or liabilities which will on that date vest in or attach to that authority in accordance with those provisions, and

(c) the applications for adoption orders under the Adoption Act 1958 in which their director of social services will be deemed to have been appointed guardian *ad litem* in accordance with those provisions.

(a) S.I. 1959/639 (1959 I, p.594).

(b) The amending Regulations are not relevant to the subject matter of this Order.

(c) 1963 c.37.

8.—(1) A successor authority which has been notified by a dissolved authority under the provisions of article 7 of this order and who is of opinion that another successor authority should have been so notified may within two months of being so notified, apply to the Secretary of State to determine whether that other successor authority or, as the case may be, no successor authority should have been notified in accordance with the said provisions.

(2) A successor authority notified as aforesaid may, within two months of being notified, agree with any other successor authority that—

- (a) any person transferred to their care, detention or supervision in pursuance of the foregoing provisions of this order, or
- (b) any function, power, right or liability vested in or attaching to them in pursuance of the foregoing provisions of this order, or
- (c) any appointment of their director of social services as guardian *ad litem* in an application for an adoption order under the Adoption Act 1958 in pursuance of the foregoing provisions of this order, be transferred to, vested in or attached to that other successor authority or their director or social services, as the case may be.

(3) Where the Secretary of State determines that another successor authority should have been notified by a dissolved authority or where a successor authority notified by a dissolved authority agrees with any other successor authority under paragraph (2) of this article—

- (a) that other successor authority may, not later than the day previous to the specified date take over the person, function, power, right or liability that is the subject of the determination or agreement,
- (b) any expenses duly incurred on or after the specified date by the successor authority notified as aforesaid in connection with that person, function, power, right or liability, including any travelling or other expenses incurred in connection with the transfer of his care to that other successor authority, may be recovered from that other successor authority.

(4) Where, before a person, function, power, right or liability mentioned in paragraph (3)(a) of this article is taken over in accordance with that sub-paragraph, the person ceases to be in care or detention, or the function, power, right or liability is varied, including variation by reason of the reception back into care of a person to whom such a function, power, right or liability relates, the said sub-paragraph shall apply as if the changed circumstances had existed immediately before the determination or agreement and had been dealt with in the same way as the matters which were the subject of the determination or agreement.

(5) Where the Secretary of State determines that another successor authority should have been notified by the council of a dissolved authority, or where a successor authority notified by a dissolved authority agrees with any other successor authority under paragraph (2) of this article, that other successor authority and no other shall be deemed to have been for the purposes of this order the successor authority that was notified.

(6) Where the Secretary of State determines that no successor authority should have been notified, it shall be deemed that no successor authority has been notified for the purposes of this order.

(7) Subject to the foregoing provisions of this article, where a successor authority has been notified by a dissolved authority concerning the appointment of their director of social services as guardian *ad litem* for the purposes of an application for an adoption order under the Adoption Act 1958, that director of social services shall, for the purposes of the foregoing provisions of this order, be deemed to have been duly appointed guardian *ad litem* for the purposes of that application.

(8) Subject to the foregoing provisions of this article, a successor authority which has been notified by a dissolved authority shall be deemed to be the authority to which for the purposes of the foregoing provisions of this order, the persons, functions, powers, rights or liabilities therein mentioned are, on the specified date, transferred.

9.—(1) Any functions, powers, rights or liabilities vested in or attaching to a dissolved authority with respect to a person transferred to the care of a successor authority by or under this order and subsisting immediately before the transfer shall thereafter vest in or attach to the successor authority; and any order of a court committing such a person to such an authority shall after the transfer have effect with the substitution of the name of the successor authority, for that of the dissolved authority.

(2) Where functions; powers, rights or liabilities vested in or attaching to a dissolved authority with respect to a person to whom a supervision order relates, are transferred by or under this order to a successor authority, the supervision order shall thereafter have effect with the substitution of the name of the successor authority, for that of the dissolved authority.

(3) Without prejudice to the provisions of paragraph (1) of this article, where functions, powers, rights or liabilities under a resolution passed under section 2 of the Children Act 1948 are transferred by or under this order to a successor authority, the resolution shall thereafter be deemed to have been passed by the successor authority.

10. Any successor authority may on and after the specified date exercise the powers conferred by section 58 of the Children and Young Persons Act 1963 in respect of a person who before that date had been in the care of a dissolved authority.

11.—(1) Where any legal proceedings are pending on the specified date to which the council of a dissolved authority is a party and the matters which are the subject of the proceedings have been transferred by or under this order, those proceedings may be continued by or against the successor authority to which those matters have been so transferred and may be amended in such manner as may be necessary or proper in consequence of this order.

(2) Any determination, requirement, consent, permission, exemption, notice or other thing made, imposed, given, served or done by, to or on a dissolved authority or the director of social services of such an authority which relates to a person, function, power, right or liability transferred by or under this order shall, if it has effect immediately before the transfer, have the like effect thereafter as if it had been made, imposed, given, served or done by, to or on the successor authority, or the director of social services of such authority.

2nd January 1974. *Keith Joseph,*
Secretary of State for Social Services.

7th January 1974. *Peter Thomas,*
Secretary of State for Wales.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order makes transitional arrangements transferring cases dealt with by the social services department of local authorities to the successor authorities provided by the Local Government Act 1972 consequent upon the establishment by that Act of non-metropolitan counties and metropolitan districts in England and counties in Wales as the local authorities for purposes of the Local Authority Social Services Act 1970.(c.42).

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