

STATUTORY INSTRUMENTS

1983 No. 250

LONDON GOVERNMENT

The Greater London Council (Transfer of Land and Housing Accommodation) Order 1983

Made - - - 28th February 1983

Laid before Parliament 10th March 1983

Coming into Operation 1st April 1983

Whereas the Greater London Council and the Councils of the London Boroughs of Hounslow and Southwark have requested the Secretary of State for the Environment to provide by an order under section 23(3) of the London Government Act 1963(a) for the transfer of certain land for the time being held by the Greater London Council for the purpose of development or redevelopment as housing accommodation and certain housing accommodation in so far as situate thereon;

And whereas the said councils have agreed the terms of such transfer;

And whereas certain further matters appear to the Secretary of State necessary and proper for the purposes of or in consequence of that transfer;

Now therefore the Secretary of State, in exercise of powers conferred by sections 23(3) and 84 of the London Government Act 1963 and now vested in him(b) and in exercise of all other powers enabling him in that behalf, hereby makes the following order:—

Citation and commencement

1. This order may be cited as the Greater London Council (Transfer of Land and Housing Accommodation) Order 1983, and shall come into operation on 1st April 1983.

Interpretation

2.—(1) In this order—

“the 1980 Order” means the Greater London Council (Transfer of Land and Housing Accommodation) Order 1980(c);

“the first 1981 Order” means the Greater London Council (Transfer of Land and Housing Accommodation) Order 1981(d);

(a) 1963 c.33.
(d) S.I.1981/289.

(b) S.I.1970/1681.

(c) S.I.1980/320.

“the second 1981 Order” means the Greater London Council (Transfer of Land and Housing Accommodation) (No 2) Order 1981(a);

“the 1982 Order” means the Greater London Council (Transfer of Land and Housing Accommodation) Order 1982(b);

“the deposited Schedules” means the Schedules prepared in triplicate and entitled “Properties transferred by the Greater London Council (Transfer of Land and Housing Accommodation) Order 1983” which is signed by an Assistant Secretary in the Department of the Environment and as to which further provision is made in article 3;

“the Council” means the Greater London Council;

“Hounslow” means the Council of the London Borough of Hounslow;

“the relevant date” means the 1st April 1983;

“representative body” means a body appearing to the Council to represent London borough councils;

“the Secretary of State” means the Secretary of State for the Environment;

“Southwark” means the Council of the London Borough of Southwark;

“the transferee”, in relation to transferred property, means Hounslow or Southwark as the case may be; and

“transferred property” means the land or housing accommodation described in the deposited Schedules and transferred by this order.

(2) Without prejudice to the generality of section 23(5) of the London Government Act 1963, in this order, unless the context otherwise requires, any reference to housing accommodation shall include a reference to garages, parking spaces, shops and estate amenities.

(3) Any reference in this order to a numbered article shall, unless that reference is to an article of a specified order, be construed as a reference to the article bearing that number in this order.

(4) Any reference in an article of this order to a numbered paragraph shall, unless the reference is to a paragraph in a specified article, be construed as a reference to the paragraph bearing that number in the first-mentioned article.

(5) Any reference in a Schedule to this order to a numbered paragraph shall, unless the reference is to a paragraph in a specified Schedule, be construed as a reference to the paragraph bearing that number in the first-mentioned Schedule.

Deposited Schedules

3. One copy of each of the deposited Schedules is deposited in the offices of the Secretary of State, one in the principal office of the Council and one which shall be open to inspection at all reasonable times in the principal office of the transferee.

(a) S.I.1981/536.

(b) S.I.1982/301.

Transfer of property

4. On the relevant date the interest of the Council in the transferred property and (save as hereinafter provided) all liabilities attaching directly or indirectly to the Council in respect of its ownership or occupation of such property shall by virtue of this order be transferred to and vest in or attach to the transferee, and—

- (a) subject to articles 6 and 7, all contracts, deeds, bonds, agreements and other instruments subsisting in favour of, or against, and all notices in force which were given (or having effect as if they had been given) by, or to, the Council in respect of such property and liabilities shall be of full force and effect in favour of, or against, the transferee; and
- (b) subject to article 9, any action or proceeding or any cause of action or proceeding, pending or existing at the relevant date, by, or against, the Council in respect of such property and liabilities shall not be prejudicially affected by reason of this order and may be continued, prosecuted and enforced by, or against, the transferee.

General words implied in transfer

5. Unless the Council and the transferee otherwise agree, section 62 of the Law of Property Act 1925(a) (which implies certain words in conveyances of land, subject to the terms of the conveyance and the provisions therein contained) shall have effect—

- (a) in respect of any transferred property; and
- (b) in respect of any property, being property vested in the Council, which is affected by the said transfer,

as if the property described in (a) and (b) respectively had been the subject of a conveyance on the relevant date.

Works of construction, etc. on transferred property

6.—(1) The Council shall construct or complete the construction of housing accommodation on the transferred property in accordance with plans deposited with the transferee, and shall prepare programmes for works thereon which arise from a major technical cause, subject to the following provisions of this article.

(2) Any contract entered into by the Council, whether before or after the relevant date, relating to or in connection with the construction of housing accommodation on transferred property shall be vested in the transferee under article 4 at the expiry of 15 days after the issue of a certificate by the architect or other supervisory officer with responsibility for the construction of such accommodation certifying final payment under the contract.

(3) The Council may by notice in writing require the transferee to assign to the Council the benefit and burden of any contract which is vested in the transferee in accordance with this article, specifying the date on which such assignment shall take place, and on that date the transferee shall so assign the benefit and burden of the contract, notwithstanding any provision thereof or otherwise purporting to prohibit or restrict assignment.

(a) 1925 c.20.

(4) The transferee shall so far as it is able afford to the Council, its officers, employees, agents and contractors all such reasonable access to the transferred property and rights to use the same as the Council may require for the purpose of carrying out works under a contract to which this article applies at any time after the relevant date when such a contract is vested in the Council.

(5) As soon as any housing accommodation constructed on transferred property becomes available for occupation, the Council shall notify the transferee accordingly.

(6) Schedule 1 to this order shall have effect in relation to works arising from a major technical cause; and any question about whether any works so arise shall be determined by the Council.

7. —(1) This article applies to any payment falling to be made under a contract to which article 6 applies at any time after the contract is vested in the transferee.

(2) Where the payment falls to be made by the transferee, the Council shall indemnify the transferee in respect thereof; and where the transferee receives any payment in connection with works the subject of a programme prepared under Schedule 1, it shall be paid to the Council.

(3) The transferee may deduct from any payment under paragraph (2) its proper legal costs and disbursements incurred thereon and not otherwise recovered by it.

Legal proceedings

8. Any legal proceedings at the relevant date may be amended in such manner as may be necessary or proper in consequence of this order.

Negligence and breach of statutory duty

9.—(1) The Council shall meet the full amount of any claim as to an act of negligence or breach of statutory duty made against them by a third party in respect of any transferred property provided that such claim—

- (a) relates to an act or breach committed or occurring before the relevant date; and
- (b) is settled for an amount in excess of £250.

(2) The transferee authority shall meet any such claim which is settled for an amount not exceeding £250.

Byelaws

10. Any byelaw in force immediately before the relevant date for the regulation of any transferred property shall have effect as if it had been made by the transferee.

Nomination rights

11.—(1) For the purposes of—

- (a) assisting in meeting the requirements of the Council and of the London borough councils for housing accommodation arising from the discharge of any of their functions; and
- (b) providing opportunities for the movement of persons requiring rented accommodation in Greater London,

the Council may until 31st March 1990 nominate tenants to not more than the relevant proportion of the vacancies existing or occurring in dwellings included in the transferred property or in dwellings provided upon transferred property after the relevant date in pursuance of article 6.

(2) The relevant proportion is 20 per centum in the case of Hounslow and 50 per centum in the case of Southwark.

(3) The transferee shall ensure that the vacancies made available to the Council for the purposes of this article shall, so far as reasonably practicable, be in dwellings which in size, type, age and quality are, taken as a whole, fairly representative of the dwellings included in the transferred property in which vacancies occur.

(4) Paragraph (1) shall not apply to a vacancy existing or occurring in a dwelling where the event giving rise to the vacancy has not increased the total number of vacancies available to the transferee for letting.

Consolidated loan funds

12. Where by virtue of this order any matter in respect of which, if this order had not been made, sums would have become due and owing to a consolidated loans fund or loans pool maintained by another authority on and after the relevant date are transferred to the transferee, such sums shall be paid by the transferee to the authority by whom the fund is maintained.

Transfer of outstanding debt

13.—(1) The transferee shall—

- (a) from the relevant date assume liability for all repayment of principal, interest and management expenses relating to the loan debt outstanding at that date on the transferred properties (including the cost of the land) and due to the consolidated loans fund of the Council;
- (b) from the date on which payment is made or costs incurred under article 6, assume a similar liability in respect of any loan debt incurred by the Council after the relevant date in meeting the liabilities created by that article;

(2) The liabilities arising under this article shall be discharged by payments to the Council of such amounts and at such times in each year as shall be agreed between the Council and the transferee.

14. Where under this order or any adjustment made in consequence hereof any liability or part of a liability charged indifferently on all the revenues of the Council or on any particular revenues or fund of the Council is transferred to a transferee authority, the liability or part of the liability, as the case may be, shall be charged indifferently on all the revenues of the transferee and shall cease to be a charge on any revenues or fund of the Council.

Housing grants and subsidies

15. The Council shall furnish the transferee with such information as the Secretary of State may require from the transferee in order to determine any question concerning housing grants or subsidies or the amount thereof.

Payments in respect of net cost of transferred property

16. Schedule 2 to this order shall have effect in relation to payments by the Council to the transferee in respect of the net cost of transferred property.

Review of certain financial terms

17.—(1) Without prejudice to any provision in Schedule 2 to this order for reviewing the terms contained in that Schedule, if an enactment is passed after the coming into operation of this order which in the opinion of the Council or of the transferee significantly affects those terms the Council or the transferee (as the case may be) may notify the other party that the said terms should be reviewed.

(2) On the giving (or receiving) of a notification under paragraph (1) the Council, in consultation with the transferee and with a representative body, shall review the said terms and such other terms may be agreed as the Secretary of State may approve.

(3) If the Council and the transferee, having held a review under paragraph (2), fail to agree such other terms as are therein mentioned the Secretary of State, on the application of the Council or of the transferee, may determine the said other terms.

Arbitration

18. Subject to any provision of this order, any dispute arising under this order or in consequence thereof shall be determined by an arbitrator appointed by agreement between the parties in dispute or, in default of agreement, by the Secretary of State and, subject as aforesaid, the provisions of the Arbitration Act 1950(a) shall apply to any arbitration under this article.

Article 6

SCHEDULE 1

WORKS ARISING FROM A MAJOR TECHNICAL CAUSE ON TRANSFERRED PROPERTY

1.—(1) The Council shall, if so requested by the transferee, prepare programmes for works to the transferred property arising from a major technical cause.

(2) The works required by the said programmes may be designed and carried out by the transferee with the consent of the Council where such a course appears expedient to the Council; but save as aforesaid the Council shall design and carry out all such works.

(3) The said programmes may provide for the transferee to assign to the Council any of the rights or liabilities falling within article 4(a) or (b) and transferred by this order, and article 6(3) shall apply to such rights or liabilities as it applies to any contract falling within that article.

(a) 1950 c.27.

(4) Article 6(4) shall apply to works to be carried out by the Council under the said programmes as it applies for the purposes of that article.

(5) In preparing programmes under this Schedule, the Council shall consult the transferee and a representative body.

2.—(1) Where the Council incurs any loan debt in connection with carrying out any works under this Schedule, the transferee shall be liable for all repayments of principal, interest and management expenses in respect of the loan debt so incurred, less the net cost of the works, as calculated in accordance with paragraph 3, and shall discharge such liability by making payments to the Council in such instalments and at such times as may be agreed between the parties.

(2) Where the transferee carries out any works required by a programme prepared under this Schedule with the consent of the Council, the Council shall pay to the transferee in respect of any financial year the net cost (if any) for that year of any such works, as calculated in accordance with paragraph 3.

3.—(1) The net cost of any works is the amount by which the gross costs thereof exceed any grants or subsidies receivable by the transferee in respect of the works.

(2) In this paragraph “gross costs” means the sum of:

- (a) the loan charges incurred by the transferee in connection with the works or, as the case may be, the liabilities of the transferee under paragraph 2, and
- (b) all costs reasonably incurred by the transferee in connection with the disturbance or removal of tenants, as agreed with the Council.

(3) Any excess which falls to be deducted from a payment under Schedule 2 by virtue of paragraph 3 thereof shall, to the extent that it exceeds the payment which would otherwise fall to be made under that Schedule.

SCHEDULE 2

Article 16

PAYMENTS IN RESPECT OF NET COST OF TRANSFERRED PROPERTY

1. Payments shall be made by the Council to the transferee in respect of the net cost of the transferred property in accordance with the following provisions of this Schedule.

2.—(1) Where in any financial year commencing with 1983/84 the outgoings in respect of the transferred property exceed the rents (including subsidies) receivable therefor, the Council shall pay the difference, subject to the following provisions of this paragraph.

(2) In sub-paragraph (1) above—

“outgoings” means the sum of:—

- (a) the liabilities of the transferee under article 13 for the relevant year, and
- (b) the costs of managing and maintaining the transferred property, as determined in accordance with paragraph 4;

“rents” means all the income from the transferred property (including rent rebate subsidy), as determined in accordance with paragraph 4; and

“subsidies” means all grants or subsidies payable in respect of the transferred property, other than rent rebate subsidy or grants or subsidies receivable by the transferee in respect of works to which Schedule 1 applies.

3.—(1) Where in relation to properties vested in the transferee by any of the orders referred to in this paragraph the total rents and subsidies received exceed the relevant amount, the excess shall be deducted from any payment falling to be made under paragraph 2.

(2) The relevant amount is:—

- (a) in the case of the 1980 order, the sum of the loan charges and costs of management and maintenance referred to in paragraph 3 of Schedule 4 to the order;
- (b) in the case of the first 1981 order, the outgoings referred to in paragraph 2 of Schedule 3 to the order;

- (c) in the case of the second 1981 order, the outgoings referred to in paragraph 1 of Schedule 2 to the order; and
- (d) in the case of the 1982 order, the outgoings referred to in paragraph 2 of Schedule 3 to the order.

4.—(1) Where housing accommodation becomes available for occupation on the transferred property and the Council notifies the transferee accordingly under article 6, the Council shall determine for the purposes of this paragraph, as at the date on which such notice is given:—

- (a) the estimated costs of managing and maintaining that housing accommodation for a whole year; and
- (b) the estimated income from that housing accommodation for a whole year.

(2) The costs referred to in paragraph 2(2) are:—

- (a) in relation to the financial year in which notice is given under article 6, the costs determined under sub-paragraph (1), abated in proportion to the part of that year which follows the notice; and
- (b) in relation to later financial years, the costs determined under sub-paragraph (1), increased from the sum determined in the previous financial year by an amount to be determined by the Council, which shall not be less than the sum per dwelling stated by the Secretary of State to have been used for the purpose of determining the reckonable expenditure of the transferee under section 99 of the Housing Act 1980.

(3) The rents referred to in paragraph 2(2) are:—

- (a) in relation to the financial year in which notice is given under article 6, the income determined under sub-paragraph (1), abated in proportion to the part of that year which follows the notice; and
- (b) in relation to later financial years, the income determined under sub-paragraph (1), increased from the sum determined in the previous financial year by an amount to be determined by the Council, which shall not exceed the sum per dwelling stated by the Secretary of State to have been used in determining the local contribution differential of the transferee under section 100 of the Housing Act 1980.

(4) Before determining the amount of any increase under this paragraph, the Council shall consult the transferee or a representative body.

5. In calculating the subsidies referred to in paragraph 2, no account shall be taken of any recoupment or reduction of subsidy under Part VI of the Housing Act 1980(a), save such as may result from the demolition by the transferee of any housing on the transferred property in pursuance of a programme under Schedule 1:

Provided that where the period taken into account by the Secretary of State under section 102 of the Housing Act 1980 began before the relevant date, such reasonable amount shall be deducted from the said subsidies for the purposes of this Schedule as may be agreed between the Council and the transferee.

6.—(1) Where the transferee disposes of or appropriates any transferred property, any payment falling to be made in respect of that property under paragraph 2 for any financial year commencing after the disposal or appropriation takes place shall be adjusted in accordance with the following provisions of this paragraph.

(2) For the purpose of this paragraph the Council shall determine what payment (if any) would fall to be made under this Schedule if the property so disposed of or appropriated were the only transferred property (in this paragraph referred to as 'the part payment').

(3) Where the consideration for the disposal, or the value at which the appropriation is made, expressed in money, is sufficient to discharge the outstanding loan debt attributable to the property, the payment for which the Council is liable shall be reduced by the amount of the part payment.

(a) 1980 c.51.

(4) Where such consideration or value is insufficient to discharge the outstanding loan debt attributable to the property, and the part payment exceeds the residual loan charges, the payment for which the Council is liable shall be reduced by the excess of the part payment over the residual loan charges.

(5) In this paragraph 'residual loan charges' means such part of the loan charges payable in respect of the property as the Council shall determine, being the amount which would remain to be met after applying in respect of the property either any annual mortgage payments to be made to the transferee, or any capital sums received by the transferee, and after deducting any grant or subsidy continuing to be payable in respect of the property.

7. The transferee shall furnish the Council with sufficient details of the disposal or appropriation of any transferred property to enable the adjustment required by paragraph 6 to be made.

8.—(1) Not later than the 31st March 1985, the Council shall review the terms set out in this Schedule for the purpose of considering the need for payments to be, or continue to be, made by the Council; and where it is agreed in consequence of such review that payments should be made having regard to the financial needs of the transferee, then the Council shall make such payments for such a period, and on such terms and conditions, as may be agreed.

(2) The Council or the transferee may at any time give notice requiring the terms set out in this Schedule to be reviewed, and specifying the circumstances which in the opinion of the notifying party call for the review, and thereupon the Council shall review the said terms; and in the event of such a review such payments shall be made as may be agreed or in default of agreement determined by the Secretary of State.

(3) Not earlier than the 31st March 1990, and every five years thereafter, the Council may, and if so requested by the transferee shall, carry out a further review of the terms set out in this Schedule; and the provisions of sub-paragraph (1) shall apply to any such further review.

(4) Any review to which this paragraph applies shall be carried out by the Council in consultation with the transferee or a representative body.

Tom King,

Secretary of State for the Environment.

28th February 1983.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order provides for an agreed transfer of housing land and accommodation from the Greater London Council to the London Boroughs of Hounslow and Southwark, in whose areas the land and accommodation is situated. It includes the agreed terms on which the transfer is to take place and also certain consequential and supplementary provisions.

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