
STATUTORY INSTRUMENTS

1986 No. 148

**The Local Government Reorganisation
(Property etc.) Order 1986**

Citation and commencement

1.—(1) This order may be cited as the Local Government Reorganisation (Property etc.) Order 1986.

(2) This order shall come into operation on 27th February 1986 for the purposes of article 22(2) to (4), and on 1st April 1986 for all other purposes.

Interpretation

2.—(1) In this order—

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

“the 1972 Act” means the Local Government Act 1972;

“abolished council” means the Greater London Council or a metropolitan county council;

“the appropriate residuary body”, in relation to an abolished council, means the residuary body established for the area of that council;

“local council”, in relation to any land (including any length of highway) or to rights and liabilities arising in relation to any such land, means the council of the London borough or metropolitan district within which such land is situated or, if the land is situated in the City, the Common Council;

“property” does not include cash or the balance on any fund or account;

“records” includes any material in written or other form; and

“statutory provision” means any provision made by or under any enactment.

(2) Without prejudice to the Interpretation Act 1978, any reference to the vesting of land by virtue of this or any relevant order shall be construed as including the vesting of any contractual licence for the use of land.

(3) Subject to article 21, any vesting of land by the principal Act or this or any relevant order shall be construed as including the vesting of any drain or sewer (within the meaning of sections 90(4) and 343(1) of the Public Health Act 1936) which is not vested in a water authority, and which is used in connection with such land.

(4) In this order “relevant order” means any other order made (whether before or after this order) under the principal Act which effects the transfer of property, rights or liabilities of an abolished council and which comes into force on or before 1st April 1986.

(5) The provisions of this order are subject to any contrary provision made by any relevant order.

(6) Any reference in this order to a numbered map is to the map so numbered in the series issued by the Department of the Environment as “Maps of the Local Government Reorganisation (Property etc.) Order 1986”.

(7) Any provision in this order vesting property shall be construed, unless the context otherwise requires, as including a reference to the vesting of rights and liabilities of an abolished council in respect of any agreement for the hire or use by, or deposit with, such a council of any such property.

(8) Any vesting by this order of property, rights or liabilities in a residuary body is without prejudice to section 62 of the principal Act.

(9) Any reference in this order to any rights or liabilities of an abolished council includes a reference to rights or liabilities acquired or incurred by any predecessor in title of such a council.

General transfer of land to local authorities

3. Subject to the provisions of this order, any land within one or more description in Schedule 1 shall vest in the local council.

Cross-boundary land

4.—(1) Article 3 shall apply to land forming part of a hereditament situated in the area of two or more local councils only if it is within a description mentioned in paragraph 1(b) or (c), 2, 4 or 7(a) or (c) of Schedule 1.

(2) Article 3 shall apply in relation to land (other than land mentioned in the paragraphs referred to above) which forms part of a hereditament situated partly in the area of an abolished council as if it were situated entirely in the area of the metropolitan district or London borough in which the hereditament partly lies.

General transfer of property, rights and liabilities to the new authorities

5.—(1) Subject to the provisions of this order, all property held, or used otherwise than temporarily, and rights or liabilities acquired or incurred, by an abolished council exclusively for or in connection with the purposes of statutory functions which by virtue of any provision made by or under the principal Act become functions of a new authority shall vest in the appropriate new authority.

(2) In this article “appropriate new authority” means the new authority established under Part III or IV of the principal Act in the area of the abolished council to discharge the statutory functions in question.

General transfer of land to residuary bodies

6.—(1) Except as expressly provided, articles 3 to 5 shall not apply to any land to which this article applies.

(2) This article applies to any land—

(a) held by an abolished council—

(i) subject to article 3, for the purposes of more than one statutory function;

(ii) as their principal place of business;

(iii) as office accommodation other than exclusively for the purposes of a statutory function—

(a) described in Schedule 1; or

(b) as to which provision is made by article 5 or 19; or

(iv) for the purposes of—

(a) any provision of the Town and Country Planning Act 1971;

(b) section 120(1)(b) of the 1972 Act; or

- (c) any provision of a local Act empowering a local authority to acquire land for the benefit, improvement or development of its area;
 - (b) subject to article 5, used by an abolished council for the purposes of any statutory function other than that for which it is held;
 - (c) appropriated to any purpose by an abolished council on or after 16th July 1985; or
 - (d) subject to article 5, which is the subject of any agreement for disposal by any such council, or of a resolution by the council or any committee or sub-committee of theirs to the effect that the land is surplus to the council's requirements or should be disposed of.
- (3) Any land to which this article applies shall vest in the appropriate residuary body.

Transfer of property etc. to specified bodies

7.—(1) Any property, rights or liabilities specified in column 1 of Part I of Schedule 2 shall vest in the body specified in that respect in column 2; and articles 3 to 6, in so far as they are inconsistent with this article, shall not apply to any land so specified.

(2) The provisions of Part II of Schedule 2 shall have effect in respect of any property, rights or liabilities mentioned in that Part and transferred by paragraph (1).

General transfer of property other than land

8.—(1) This article has effect in respect of any property other than land for which provision is not otherwise made by this or any relevant order.

(2) Where by virtue of the principal Act or this or any relevant order any hereditament comprising land vests in any body, any property in or on the land, being property held by an abolished council for the purposes of any function which on or after 1st April 1986 is exercisable by that body shall, subject to paragraph (3), vest in that body; and where parts of such a hereditament are so vested in more than one such body, all property normally kept on any land shall vest in the body in which that land is vested.

(3) Paragraph (2) applies—

- (a) to vehicles and other mobile equipment which are normally kept on any land, and
- (b) to property used or intended to be used exclusively for the discharge of functions on any land, and which is kept elsewhere when not in use,

as it applies to property in or on that land.

(4) Any vehicle licence, operator's licence, road service licence, plating certificate or other document issued in respect of any vehicle transferred by this or any relevant order shall have effect as if it had been issued to the authority to whom such vehicle is transferred (“the transferee”) and any reference to an abolished council in any registration book or other document issued in respect of such a vehicle shall have effect as a reference to the transferee.

Transfer of rights and liabilities etc

9.—(1) All rights and liabilities in respect of any payment which was due and payable by or to an abolished council before 1st April 1986 shall vest in the appropriate residuary body.

(2) This paragraph applies to rights and liabilities arising wholly in connection with the ownership or occupation of any land which by virtue of the principal Act, of section 263 of the Highways Act 1980 or of this or any relevant order is vested in any body (“the relevant body”), including rights and liabilities in respect of a contract for the provision of services (whether by or for an abolished council) on, or the delivery of goods to, such land.

(3) Subject to the provisions of this article—

- (a) all rights and liabilities to which paragraph (2) applies shall vest in the relevant body, or, where land forms part of a hereditament which is vested in more than one body, in those bodies jointly and severally; and
- (b) all rights and liabilities arising in relation to any contract for goods and services to be provided by or to an abolished council (other than those to which article 5 or paragraph (2) applies) shall vest jointly and severally in all the local councils in the area of an abolished council.

(4) Subject to the provisions of this article, and of articles 5, 10, 14 and Schedule 2, all rights and liabilities arising in relation to any transaction—

- (a) whereby an abolished council undertook any liability for the management, maintenance, repair or improvement of any property situated within its area which is vested in any other person, or any liability for a guarantee, indemnity, or financial assistance by way of grant or otherwise in respect of any such property, or
- (b) undertaken by or for an abolished council in relation to the maintenance or repair of any length of highway,

shall vest in the local council, or, where the property is situated in the area of more than one such council, in those councils jointly and severally.

(5) Paragraph (4)(a) applies to a liability imposed by or under any statutory provision as it applies to a liability which is undertaken voluntarily.

(6) Anything done or omitted to be done by or in relation to an abolished council in respect of any such land or contract as is mentioned in this article shall have effect as if done or omitted by or in relation to the body to which rights and liabilities in respect of such land or such a contract are transferred, or, if there is more than one such body, by or in relation to those bodies jointly and severally.

(7) The appropriate residuary body may, if it thinks fit, make or receive any payment which by virtue of this or any relevant order would fall to be made or received by any other body; and where the right or liability is one within any description in paragraph (10), it may recover the amount paid from or, as the case may be, pass on the amount received to, that body.

(8) Where a residuary body makes any payment or enforces any claim in pursuance of the vesting in it of any right or liability such as is described in paragraph (1), that body may, where the right or liability is one within a description in paragraph (10)(a), or one which was acquired or incurred for or in connection with the purposes of statutory functions which on and after 1st April 1986 become functions of a body (“the successor body”) other than a local council, new authority or authority established under section 10 of the principal Act, recover the amount paid from or, as the case may be, pass on the amount received, to the Inner London Education Authority or, as the case may be, the appropriate successor body.

(9) In recovering any amount paid in pursuance of paragraph (7) or (8), the residuary body may also recover any costs reasonably attributable to that payment or that recovery.

(10) The descriptions of rights and liabilities referred to in paragraphs (7) and (8) are—

- (a) all rights and liabilities acquired or incurred by the Greater London Council acting as the Inner London Education Authority;
- (b) all other rights and liabilities vested other than in a local council, new authority, or authority established under section 10 of the principal Act; and
- (c) all liabilities to which paragraph (2) applies, other than any liability to provide services or deliver goods.

(11) Where by virtue of this or any relevant order there are transferred to any body which is not a rating authority, a new authority or an authority established under section 10 of the principal Act any rights or liabilities in connection with a contract for the provision of goods or services by an

abolished council on or after 1st April 1986, the appropriate residuary body may pay to or, as the case may be, recover from that body an amount equal to the difference between the totals of all sums paid and sums expended in respect of such a contract.

(12) In this article “contract” includes any enforceable undertaking.

Mortgages and housing matters

10.—(1) All rights and liabilities of an abolished council in respect of mortgages of land shall vest in the appropriate residuary body, and each such body shall be treated as a local authority for the purposes of section 442(1)(a) of, and Schedule 18 to, the Housing Act 1985.

(2) Subject to paragraphs (3) to (5), all rights and liabilities of an abolished council acquired or incurred in pursuance of the enactments specified in Schedule 3 shall vest in the appropriate residuary body.

(3) As respects any case in which an application for a grant has been approved by the Greater London Council under Part VII of the Housing Act 1974, any sum by way of grant unpaid on 1st April 1986 shall be payable by the local council on the completion of the relevant works to their satisfaction.

(4) Where any grant under Part VII of the Housing Act 1974 has been paid in part by the Greater London Council and as to the remainder falls to be paid by the local council—

- (a) section 516 of the Housing Act 1985 shall apply as if the London Residuary Body and the local council had each paid a grant equal in amount to the amount so paid; and
- (b) the other provisions of Part XV of that Act shall have effect as if the local council had paid the sum paid by the Greater London Council.

(5) Where any applicant has been notified by the Greater London Council for the purposes of the Homes Insulation Act 1978 that he may proceed to execute works, but by 1st April 1986 no grant has been paid, all rights and liabilities arising in respect of the notification shall vest in the local council.

(6) All rights and liabilities of an abolished council under the Home Purchase Assistance and Housing Corporation Guarantee Act 1978 shall vest in the appropriate residuary body, which shall be treated as a recognised lending institution for the purposes of section 447 of the Housing Act 1985.

Use of property in connection with functions

11.—(1) Subject to paragraph (6), this paragraph applies to any property (“the relevant property”) which—

- (a) by virtue of the principal Act or this or any relevant order vests in any body (“the owner”), and
- (b) immediately before the abolition date was used by the abolished council, or was proposed to be used, otherwise than temporarily for the purposes of any function (“relevant function”) which is exercisable on and after that date by another body (“the occupier”) (whether or not it is also exercisable by the owner).

(2) The occupier shall be entitled to use that property for the purposes of that function to the extent to which it was so used or proposed to be used by the abolished council.

(3) Where the relevant property is vested in a residuary body, the period during which it may be used in pursuance of paragraph (2) shall be determined by that body, and the other terms on which it may be used shall be agreed between that body and the occupier.

(4) Where the relevant property is vested other than in a residuary body, the period during which, and the other terms on which it may be used in pursuance of paragraph (2), shall be agreed between the owner and the occupier.

(5) This article shall not be construed as conferring, and unless the owner and the occupier otherwise agree, no agreement under this article shall create, or determination under article 22 shall confer, a tenancy or right to a tenancy to which Part II of the Landlord and Tenant Act 1954 applies.

(6) Paragraph (1) shall not apply to any property which was, immediately before 1st April 1986, being used in connection with functions which by virtue of Part I of the Prosecution of Offences Act 1985 (“the 1985 Act”) become functions of the Director of Public Prosecutions.

(7) In relation to any such property as is mentioned in paragraph (6), section 13 (except subsection (6)(b)) of the 1985 Act shall apply to the body in which that property vests by virtue of this or any relevant order as it applies to a local authority or police authority for the purposes of the 1985 Act.

Records

12.—(1) All records of an abolished council relating exclusively to the discharge of any of that council's functions in any area in which, on and after 1st April 1986, that function is exercisable by another body shall vest in that body.

(2) All records of an abolished council other than those to which paragraph (1) applies shall vest in the appropriate residuary body.

(3) Where—

- (a) any records relating to any function of an abolished council (“the relevant records”) vest by virtue of the principal Act or this or any relevant order in any body, or are subsequently transferred to another body, and
- (b) that function is exercisable on and after 1st April 1986 within the area of that council or any part of it by any other body (whether or not it is also exercisable by the body in which the relevant records are vested or to which they have been transferred),

that other body shall be entitled during ordinary office hours, through any person authorised in that behalf, to inspect and take extracts and to be supplied with copies of those records.

Historic House Museums and Hampstead Heath

13.—(1) All land vested in the Greater London Council within the stippled area on map 1 (which relates to Kenwood and Hampstead Heath), other than such land as is vested in the Historic Buildings and Monuments Commission for England (“the Commission”) by section 44 of the principal Act, shall vest in the Commission.

(2) All the pictures specified in the deed scheduled to the Iveagh Bequest (Kenwood) Act 1929, together with all other property vested in the Greater London Council exclusively for the purposes of the Historic House Museums, shall vest in the Commission.

(3) All land vested in the Greater London Council within the hatched area on map 1 shall vest in the London Residuary Body.

(4) In relation to any land transferred to the Commission by this article or by section 44 of the Act, there are conferred on the Commission the powers exercisable by the Greater London Council under—

- (a) section 145 of the 1972 Act (provision of entertainments), and
- (b) subsections (1)(b), (e) and (f) and (2) of section 19 of the Local Government (Miscellaneous Provisions) Act 1976 (recreational facilities).

(5) The functions exercisable by the Greater London Council as respects any land vested by this article or by section 44 of the principal Act under—

the Hampstead Heath Act 1871,

the Hampstead Heath Enlargement Acts 1886 and 1888,
the London County Council (General Powers) Act 1899 and
the London County Council (General Powers) Act 1905,
are conferred on the body in which that land is so vested.

The South Bank

14.—(1) This paragraph applies to all land vested in the Greater London Council within the area hatched on map 2.

(2) The land to which paragraph (1) applies shall vest in the London Residuary Body, and nothing in article 9(4) shall have effect to vest any rights and liabilities in respect of property situated on that land other than in that body.

(3) The land surrounded by the land to which paragraph (1) applies shall vest in the Arts Council of Great Britain, insofar as it is not so vested by section 47 of the principal Act.

(4) All rights and liabilities vested in the Greater London Council in respect of the Festival Pier shall vest in the Thames Water Authority.

Thamesmead

15.—(1) Article 3 shall not (except in respect of paragraphs 9 and 10 of Schedule 1) apply to any land vested in the Greater London Council and within the area edged black on map 3 (“Thamesmead”) which land shall, subject to article 5 and paragraph (2), vest in the London Residuary Body.

(2) Paragraph (1) shall not have effect in respect of any land at Thamesmead held by the Greater London Council for the purposes of the Land Drainage Act 1976, which land shall vest in the Thames Water Authority.

Green belt land

16.—(1) Subject to paragraph (2) and article 17,—

- (a) land held by the Greater London Council for the purposes of the Green Belt (London and Home Counties) Act 1938 (“the 1938 Act”) and
- (b) any rights and liabilities vested in the Greater London Council for those purposes in relation to land vested in any other person,

shall (in respect of land in Greater London) vest in the local council, and (in respect of any other land) vest in the council of the county in which it is situated.

(2) Paragraph (1) does not apply to—

- (a) any rights and liabilities in relation to any land held for the purposes of the 1938 Act by another local authority (within the meaning of that Act), which shall vest in that authority;
- (b) any land described in column (1) of Schedule 4, or any rights and liabilities relating to any such land, which shall vest in the council mentioned in respect of such land in column (2) of that Schedule.

Smallholdings

17.—(1) Land held by an abolished council as a smallholding or cottage holding for the purposes of Part III of the Agriculture Act 1970, other than that to which paragraph (2) applies, which is situated in any local government area mentioned in column 1 of Schedule 5 shall vest in the council

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format. The electronic version of this UK Statutory Instrument has been contributed by Westlaw and is taken from the printed publication. **Read more***

of the county mentioned in respect of that area in column 2 of that Schedule, and any other land so held for those purposes shall vest in the council of the county in which it is situated.

(2) This paragraph applies to the Simonswood estate, which shall vest in Lancashire County Council.

The Greater London Record Office

18.—(1) There shall vest in the Common Council—

- (a) the land and premises at 40 Northampton Road, Clerkenwell occupied in part for the purposes of the Greater London Record Office and History Library; and
- (b) all records held by the Greater London Council (whether at those premises or otherwise) for those purposes; and
- (c) any other property held by the Greater London Council exclusively for those purposes.

(2) In the Local Government (Records) Act 1962(1)—

- (a) in section 2(6) after the words “London borough” there shall be inserted the words “to the Common Council of the City of London,”;
- (b) after section 2(6) there shall be inserted—

“(7) In the application of this section to the Common Council of the City of London ‘local interest’ shall be construed as if the area of the Council included the whole of Greater London.”;

- (c) in section 8(1), in the definition of “local authority”, after the words “county district” there shall be inserted the words “the Common Council of the City of London”.

Rent officer service

19. Any land held by the council of a metropolitan county exclusively for the purposes of the rent officer service shall vest in the council of the district mentioned below in relation to that county:—

Greater Manchester	Manchester
Merseyside	Sefton
South Yorkshire	Doncaster
Tyne and Wear	Gateshead
West Midlands	Walsall
West Yorkshire	Calderdale.

Thames Barrier etc

20. The Thames Barrier, and all other property held by the Greater London Council for the purposes of their functions under the Thames Barrier and Flood Prevention Act 1972 and the Land Drainage Act 1976 shall vest in the Thames Water Authority.

Property etc. vested in more than one body

21.—(1) This paragraph applies to any hereditament comprising land parts of which are, by virtue of any provision of the principal Act or this or any relevant order vested in different bodies; and the

(1) a new section 2(6) is substituted by paragraph 22(1) of Schedule 8 to the Local Government Act 1985.

bodies amongst which any such hereditament is divided or in which any rights and liabilities are vested are in this article referred to as “the relevant bodies”.

(2) Where any easement or other right over one part (“the servient part”) of any hereditament to which paragraph (1) applies is required to enable another such part (“the dominant part”) to be used, or to enable the full benefit of that part to be enjoyed, the body in which the dominant part is vested may serve notice (“the initial notice”) on the body in which the servient part is vested specifying the easement or other right required and demanding that it be granted on the terms specified in the notice.

(3) The body on which the initial notice is served shall grant the required easement or other right on the specified terms unless within 3 months of receiving the initial notice it serves a counter-notice stating that it does not agree that the easement or other right is so required or that it does not accept the specified terms.

(4) The custody of documents of title and all other documents held by an abolished council and relating to any hereditament to which paragraph (1) applies or to any rights or liabilities which by virtue of this or any relevant order vest in more than one body shall vest in whichever of the relevant bodies may be agreed between them, and the other body or bodies shall be entitled during ordinary office hours to inspect and take extracts from, and to be supplied with, copies of all such documents; and, in the case of documents of title, the body having custody of such documents shall be treated for all the purposes of section 64 of the Law of Property Act 1925 as if it had given an acknowledgement in writing to production of such documents.

(5) Any drain or sewer such as is mentioned in article 2(3) which serves a hereditament to which paragraph (1) applies shall vest in the relevant bodies jointly.

Disputes

- (a) **22.** (1) (a) Any matter which by virtue of any provision in this or any relevant order falls to be agreed between any parties, and is not so agreed;
- (b) any question as to whether any easement or other right is required to enable any land to be used or the full benefit of it to be enjoyed;
- (c) any question as to the terms on which any easement or other right is to be conferred; and
- (d) any question as to whether any amount is recoverable from any body in pursuance of article 9(7) or (8),

shall be determined by a person agreed on by the parties concerned or, in default of their agreement, appointed—

- (i) where the appropriate residuary body is not one of those parties, by that body; and
- (ii) where that body is one of those parties, by the Secretary of State;

and any question as to the interpretation or application of this or any relevant order may be so determined.

(2) The appropriate residuary body may, by notice in writing given before 15th March 1986 to the local council determine—

- (a) the extent of any property to be vested by this order; or
- (b) the functions for the purposes of which any such property was held on the relevant date, or is used, or was acquired by an abolished council; or
- (c) any matter which two or more local councils, by notice in writing, request it to determine.

(3) A copy of any notice under paragraph (2) shall also be given to any body or bodies appearing to the appropriate residuary body to have an interest in the matter.

(4) If notice is given before 1st April 1986 to a residuary body by any council or other body that they are dissatisfied with any determination under paragraph (2) the question shall be determined by

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format. The electronic version of this UK Statutory Instrument has been contributed by Westlaw and is taken from the printed publication. **Read more***

agreement between the residuary body and that council or other body, or failing such agreement, by a person agreed on by them or in default of agreement appointed by the Secretary of State.

(5) Where at 1st April 1986 notice has been given under paragraph (4) and the question has not been determined the property in question shall vest in the appropriate residuary body pending its determination.

(6) Any reference in any provision of this or any relevant order to determination by a person shall be construed as including a reference to three persons.

(7) Section 31 of the Arbitration Act 1950 shall have effect for the purposes of the determination of any question by any person under this article as if such determination were an arbitration under any other Act within the meaning of that section.

Continuity, byelaws etc

23.—(1) Without prejudice to section 98 of the principal Act—

- (a) all contracts, deeds, bonds, agreements and other instruments subsisting in favour of, or against, and all notices in force which were given, or have effect as if given, by, or to, an abolished council in respect of any property, rights or liabilities (“transferred matters”) transferred by or under any provision of the principal Act, shall be of full force and effect in favour of, or against, the body (“the transferee”) to which such matters are transferred, and
- (b) any action or proceeding, or any cause of action or proceeding, pending or existing at 1st April 1986 by or against an abolished council and in respect of any transferred matters may be continued, prosecuted and enforced by the transferee.

(2) Where by virtue of this or any relevant order any function of an abolished council is conferred on any body in respect of any property transferred to it, subsections (2) and (4) to (8) of section 98 of the principal Act shall apply to that body, in respect of that function, as if it, and no other body, were the successor authority for the purposes of that section.

(3) Any body to which any public open space is transferred by the principal Act or this or any relevant order may make or amend byelaws in respect of it under section 15 of the Open Spaces Act 1906 as if they had acquired it under that Act.

(4) Sections 236 to 238 of the 1972 Act shall apply to byelaws made in pursuance of any provision of this or any relevant order other than by a local authority or the Inner London Education Authority as they apply to byelaws made by such an authority.

(5) The powers exercisable by the Greater London Council under the Open Spaces Act 1906 and articles 7 to 13, 18 and 19 of the schedule to the Ministry of Housing and Local Government Provisional Order Confirmation (Greater London Parks and Open Spaces) Act 1967 are, in respect of any parks or open spaces vested in the London Residuary Body by this or any relevant order, conferred on that body.

31st January 1986

Kenneth Baker
Secretary of State for the Environment