



Greater London Authority Act 1999

1999 CHAPTER 29

PART XII

SUPPLEMENTARY PROVISIONS

Transfers

408 Transfers of property, rights or liabilities

- (1) A Minister of the Crown may by order make provision for or in connection with the transfer to any body or person falling within subsection (2) below of such property, rights or liabilities of a body or person falling within subsection (3) below as he may consider appropriate.
- (2) The bodies and persons falling within this subsection are—
 - (a) the Authority;
 - (b) any functional body;
 - (c) any subsidiary of Transport for London;
 - (d) London Regional Transport or any subsidiary of London Regional Transport;
 - (e) any local authority or the Common Council;
 - (f) any police authority established under section 3 of the Police Act 1996;
 - (g) the London Transport Users' Committee;
 - (h) any Minister of the Crown or government department;
 - (i) any body or person, or the holder of any office, established by or under this Act and not falling within the preceding paragraphs of this subsection.
- (3) The bodies and persons falling within this subsection are—
 - (a) any Minister of the Crown or government department;
 - (b) any London borough council or the Common Council;
 - (c) London Regional Transport or any subsidiary of London Regional Transport;
 - (d) any company all the shares in which are held by a Minister of the Crown;
 - (e) the Receiver for the Metropolitan Police District;

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- (f) the Commissioner of Police of the Metropolis;
 - (g) the Development Commission;
 - (h) the Urban Regeneration Agency;
 - (i) the Commission for the New Towns;
 - (j) any body or person, or the holder of any office, for whose abolition or dissolution provision is made by or under this Act and which does not fall within the preceding paragraphs of this subsection.
- (4) The power conferred by subsection (1) above is exercisable—
- (a) for the general purposes, or any particular purposes, of this Act;
 - (b) in consequence of, or otherwise in connection with, any provision made by or under this Act;
 - (c) for giving full effect to this Act; or
 - (d) in consequence of such of the provisions of any other Act passed—
 - (i) before the relevant day, within the meaning of section 405 above, or
 - (ii) in the Session in which that day falls,
 as apply to any area, or any body or person, affected by this Act.
- (5) The power conferred by subsection (1) above is also exercisable in relation to a transfer of property, rights or liabilities to the London Development Agency for any purpose for which such a transfer may be made by a scheme under the Regional Development Agencies Act 1998.
- (6) To the extent that an order under subsection (1) above makes provision for or in connection with the transfer of property, rights or liabilities to the London Development Agency from—
- (a) the Urban Regeneration Agency, or
 - (b) the Commission for the New Towns,
- section 38 of the Regional Development Agencies Act 1998 (relief from Corporation Tax) shall apply in relation to the order as if it were a transfer scheme within the meaning of that section.
- (7) An order under subsection (1) above may make provision for or in connection with—
- (a) the grant or creation of an estate or interest in, or right over, any land or other property,
 - (b) the grant or creation of any other rights, or
 - (c) the imposition of liabilities,
- in favour of, or on, any body or person falling within subsection (2) above or any body or person falling within subsection (3) above.
- (8) An order under subsection (1) above may make provision for transfers to take effect at such time of day as may be specified in the order.

409 Transfer schemes

- (1) A Minister of the Crown may make schemes for the transfer from the Crown to one or more bodies or persons falling within subsection (2) of section 408 above of such property, rights or liabilities as he may consider appropriate.
- (2) A Minister of the Crown may by directions require a body or person falling within subsection (3) of section 408 above to make one or more schemes for the transfer to

a body or person falling within subsection (2) of that section of such property, rights or liabilities as he may consider appropriate.

- (3) The powers conferred by subsection (1) or (2) above are exercisable—
- (a) for the general purposes, or any particular purposes, of this Act;
 - (b) in consequence of, or otherwise in connection with, any provision made by or under this Act;
 - (c) for giving full effect to this Act; or
 - (d) in consequence of such of the provisions of any other Act passed—
 - (i) before the relevant day, within the meaning of section 405 above, or
 - (ii) in the Session in which that day falls,as apply to any area, or any body or person, affected by this Act.
- (4) The powers conferred by subsection (1) or (2) above are also exercisable in relation to a transfer of property, rights or liabilities to the London Development Agency for any purpose for which such a transfer may be made by a scheme under the Regional Development Agencies Act 1998.
- (5) To the extent that a scheme under subsection (1) or (2) above makes provision for or in connection with the transfer of property, rights or liabilities to the London Development Agency from—
- (a) the Urban Regeneration Agency, or
 - (b) the Commission for the New Towns,
- section 38 of the Regional Development Agencies Act 1998 (relief from Corporation Tax) shall apply in relation to the scheme as if it were a transfer scheme within the meaning of that section.
- (6) A scheme under subsection (1) or (2) above may make any provision that may be made by order under subsection (1) of section 408 above.
- (7) A scheme under subsection (1) or (2) above may make any provision that may be made by order under subsection (1) of section 411 below.
- (8) Accordingly, the bodies or persons in relation to which provision may be made by virtue of subsection (7) above are not restricted to those falling within subsection (2) or (3) of section 408 above.
- (9) Schedule 31 to this Act (which makes provision in relation to schemes under this section) shall have effect.

410 Contracts of employment etc

- (1) The provision that may be made by transfer instrument includes provision for or in connection with the transfer of—
- (a) rights and liabilities under contracts of employment; or
 - (b) members of police forces and other persons in relation to whom paragraph (a) above does not apply.
- (2) Subsections (3) to (5) below apply where any rights or liabilities under a contract of employment are transferred by virtue of this Act.

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- (3) Anything done by or in relation to the transferor in respect of the employee before the day on which the transfer takes effect shall be treated on and after that day as done by or in relation to the transferee.
- (4) For the purposes of Part XI of the Employment Rights Act 1996 (redundancy payments etc) the employee shall not be regarded as having been dismissed by virtue of the transfer.
- (5) For the purposes of that Act, the employee's period of employment with the transferor shall count as a period of employment with the transferee, and the change of employment shall not break the continuity of the period of employment.
- (6) In this section—
 - (a) any reference to anything made or done by or in relation to the transferor includes a reference to anything which is treated by virtue of any enactment as having been made or done by or in relation to the transferor; and
 - (b) any reference to an employee's period of employment with the transferor shall be construed accordingly.
- (7) In the application of this section to a person employed in the civil service of the State—
 - (a) any reference to employment includes a reference to employment in that service;
 - (b) any reference to a contract of employment includes a reference to the terms of that employment; and
 - (c) any reference to dismissal includes a reference to the termination of that employment.
- (8) Where a transfer instrument makes provision for or in connection with a transfer falling within subsection (1)(b) above, the provision that may be made includes provision for or in connection with applying subsections (3) to (7) above (with or without modifications) in relation to or otherwise in connection with the transfer.
- (9) In this section “transfer instrument” means—
 - (a) an order under section 408 above; or
 - (b) a scheme under section 409 above.

411 Pensions

- (1) A Minister of the Crown may by order make provision with respect to the provision of pensions for or in respect of persons who are or have been employees of, or of subsidiaries of,—
 - (a) any of the bodies or persons falling within subsection (2) of section 408 above;
 - (b) any of the bodies or persons falling within subsection (3) of that section; or
 - (c) any body or person whose undertaking, or part of whose undertaking, has been transferred by or under any enactment to a body or person falling within paragraph (b) above.
- (2) The provision that may be made by virtue of subsection (1) above includes provision for or in connection with—
 - (a) the establishment of pension schemes or pension funds;
 - (b) the administration or management of pension schemes or pension funds;

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- (c) enabling persons to participate, or continue to participate, in any pension scheme and requiring their employers to make contributions under that scheme;
 - (d) the rates, or the variation of the rates, of contributions to be made under any pension scheme, whether by employees or employers;
 - (e) the re-arrangement, amalgamation, simplification or assimilation of pension schemes.
- (3) An order under subsection (1) above may make provision for or in connection with—
- (a) the alteration or winding up of any pension scheme or pension fund, whether in whole or in part;
 - (b) the variation of any trust;
 - (c) the transfer of the whole or any part of any pension fund or of any rights, obligations or liabilities under a pension scheme;
 - (d) the persons by whom any function under or relating to the scheme is to be exercisable;
 - (e) establishing a body to administer or assist in administering a pension scheme;
 - (f) enabling all or any of the participants in a pension scheme to become instead participants in another pension scheme;
 - (g) empowering the persons responsible for administering a pension scheme to carry out arrangements for the participation in the scheme of a person who has been an employee of, or of a subsidiary of, a body or person falling within paragraph (b) or (c) of subsection (1) above;
 - (h) the amendment of a pension scheme;
 - (i) the manner in which questions arising under the order are to be determined.
- (4) An order under subsection (1) above may amend—
- (a) the trust deed of any pension scheme;
 - (b) the rules of any such scheme; or
 - (c) any other instrument relating to the constitution, management or operation of any such scheme;
- and any reference in this section to the amendment of a pension scheme includes a reference to the amendment of any such trust deed, rules or other instrument.
- (5) An order under subsection (1) above may make provision for or in connection with cases where a person who, having pension rights to which such an order relates, becomes—
- (a) the Mayor or an Assembly member;
 - (b) a member of a body or person falling within subsection (2) of section 408 above; or
 - (c) a director of a subsidiary of such a body or person.
- (6) The provision that may be made by virtue of subsection (5) above includes, in particular, provision for or in connection with—
- (a) treating a person's service as such a member or director as service in the employment of, or of a subsidiary of, such a body or person; or
 - (b) treating two or more periods of service as continuous.
- (7) An order under this section may be made so as to have effect from a date prior to the making of the order.

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- (8) An order under this section may only be made after consultation with the trustees or managers, or the administrators, of any pension fund or pension scheme to which the order relates.
- (9) An order under subsection (1) above which makes provision by virtue of subsection (3) (f) above in relation to persons who are or have been employees of the Metropolitan Police Authority shall only be made—
- (a) after consultation with the Metropolitan Police Authority, and
 - (b) with the consent of the Minister for the Civil Service.
- (10) Schedule 32 to this Act (which makes provision in relation to schemes for the provision of pensions or other benefits for or in respect of employees etc of London Regional Transport and its subsidiaries) shall have effect.
- (11) In this section—
- “instrument” includes an enactment or any subordinate legislation;
 - “pension” means a pension of any kind payable to or in respect of a person and includes—
 - (a) a lump sum, allowance or gratuity so payable; and
 - (b) a return of contributions, with or without interest or other addition;
 - “pension rights” includes—
 - (a) all forms of right to or eligibility for the present or future payment of a pension to or in respect of a person; and
 - (b) a right of allocation in respect of the present or future payment of a pension;
 - “pension scheme” means an occupational pension scheme, as defined in section 1 of the Pension Schemes Act 1993.

412 Transfer and pension instruments: common provisions

- (1) The property, rights and liabilities which may be transferred by a transfer or pension instrument include—
- (a) property, rights and liabilities that would not otherwise be capable of being transferred or assigned; and
 - (b) rights and liabilities under enactments.
- (2) No right of reverter, right of pre-emption, right of forfeiture, right of re-entry, right to compensation, option or similar right affecting any land or other property shall operate or become exercisable as a result of any transfer of land or other property by virtue of a transfer or pension instrument (whether or not any consent required to the transfer has been obtained).
- (3) No right to terminate or vary a contract or instrument shall operate or become exercisable, and no provision of a contract or relevant document, shall operate or become exercisable or be contravened, by reason of any transfer by virtue of a transfer or pension instrument.
- (4) For purposes connected with any transfers made by virtue of a transfer or pension instrument (including the transfer of rights and liabilities under an enactment) a body or person to which anything is transferred by virtue of the instrument is to be treated as the same person in law as the body or person from which it is transferred, except as otherwise provided in the instrument.

- (5) Subsection (4) above is without prejudice to section 300 above, section 415 below or any other provision made by or under this Act which makes transitional provision in relation to a transfer.
- (6) Subsections (2) to (5) above shall have effect in relation to—
- (a) the grant or creation of an estate or interest in, or right over, any land or other property, or
 - (b) the doing of any other thing in relation to land or other property,
- as they have effect in relation to a transfer of land or other property.
- (7) A transfer or pension instrument may define the property, rights and liabilities to be transferred by it—
- (a) by specifying or describing them;
 - (b) by referring to all (or all but so much as may be excepted) of the property, rights and liabilities comprised in a specified part of the undertaking of the transferor; or
 - (c) partly in the one way and partly in the other.
- (8) A transfer or pension instrument may make provision for the apportionment or division of any property, rights or liabilities.
- (9) Where a transfer or pension instrument makes provision for the apportionment or division between two or more persons of any rights or liabilities under a contract, the contract shall have effect, as from the coming into force of the provision, as if it constituted two or more separate contracts separately enforceable by and against each of those persons respectively as respects the part of the rights or liabilities which falls to him as a result of the apportionment or division.
- (10) The provision that may be made by a transfer or pension instrument includes provision for—
- (a) any transfer of land or other property by virtue of the instrument,
 - (b) the grant or creation of any estate or interest in, or right over, any land or other property by virtue of the instrument, or
 - (c) the doing of any other thing in relation to land or other property by virtue of the instrument,
- to be on such terms, including financial terms, as the body or person making the instrument thinks fit.
- (11) A transfer or pension instrument, other than an order under section 411 above, may provide—
- (a) that disputes as to the effect of the instrument between the transferor and any transferee are to be referred to such arbitration as may be specified in or determined under the instrument;
 - (b) that determinations on such arbitrations and certificates given jointly by the transferor and any transferee as to the effect of the instrument as between them are to be conclusive for all purposes.
- (12) A Minister of the Crown may by order confer on any body or person to whom property, rights or liabilities are transferred by a transfer or pension instrument any statutory functions which were previously exercisable in relation to that property or, as the case may be, those rights or liabilities—
- (a) by a body or person falling within subsection (3) of section 408 above; or

- (b) in the case of a transfer under or by virtue of section 411 above, the transferor under the instrument.
- (13) It shall be the duty—
- (a) of each of the bodies and persons falling within subsection (2) or (3) of section 408 above, and
 - (b) of the trustees or managers, or administrators, of any pension scheme, to provide any Minister of the Crown with such information or assistance as he may reasonably require for the purposes of, or in connection with, the exercise of any powers exercisable by him in relation to transfer or pension instruments.
- (14) Where any person is entitled, in consequence of any transfer made by virtue of a transfer or pension instrument, to possession of a document relating in part to the title to, or to the management of, any land or other property in England and Wales—
- (a) the instrument may contain provision for treating that person as having given another person an acknowledgment in writing of the right of that other person to the production of the document and to delivery of copies thereof; and
 - (b) section 64 of the Law of Property Act 1925 (production and safe custody of documents) shall have effect accordingly, and on the basis that the acknowledgment did not contain any such expression of contrary intention as is mentioned in that section.
- (15) In this section—
- “relevant document” means—
 - (a) any enactment, other than an enactment contained in this Act;
 - (b) any subordinate legislation made otherwise than under this Act; or
 - (c) any deed or other instrument;
 - “transfer or pension instrument” means—
 - (a) an order under section 408 or 411 above; or
 - (b) a scheme under section 409 above.

413 Modification of transfer or pension instruments

- (1) If, at any time after a transfer or pension instrument has come into force, a Minister of the Crown considers it appropriate to do so, he may by order provide that the instrument shall for all purposes be deemed to have come into force with such modifications as may be specified in the order.
- (2) An order under subsection (1) above may make such provision as could have been made by the transfer or pension instrument.
- (3) An order under subsection (1) above may only be made after the requisite consultation.
- (4) If, at any time after a scheme under section 409 above has come into force, a Minister of the Crown considers it appropriate to do so, he may by directions require a body or person falling within subsection (2) of section 408 above to prepare modifications to the scheme of such a description as may be specified in the directions.
- (5) Where a body or person is required to prepare any modifications under subsection (4) above, the body or person shall submit the modifications to the Minister for his approval before such date as he may direct.

- (6) Where any modifications are submitted under subsection (5) above, the Minister may approve them with or without amendment.
- (7) Approval under subsection (5) above shall only be given after the requisite consultation.
- (8) An approval under subsection (5) above shall take effect on such date as the Minister may specify in giving the approval.
- (9) Where any modifications are made and approved under the preceding provisions of this section, whether with or without amendment, the scheme shall for all purposes be deemed to have come into force with those modifications, subject to any such amendment.
- (10) For the purposes of this section, “the requisite consultation”—
 - (a) if or to the extent that the transfer or pension instrument concerned makes provision by virtue of the pension powers of this Part, is consultation with the trustees or managers, or the administrators, of any pension scheme affected; and
 - (b) if or to the extent that the transfer or pension instrument concerned makes provision otherwise than by virtue of the pension powers of this Part, is consultation with any body which, or person who, the Minister considers may be affected.
- (11) In this section—
 - “approval” means approval in writing;
 - “the pension powers of this Part” means—
 - (a) in the case of a scheme, section 409(7) above; and
 - (b) in the case of an order, section 411 above;
 - “transfer or pension instrument” has the same meaning as in section 412 above.

414 Foreign property, rights or liabilities: perfection of vesting

- (1) This section applies in any case where a transfer or pension instrument provides for the transfer of any foreign property, rights or liabilities.
- (2) It shall be the duty of the transferor and the transferee to take, as and when the transferee considers appropriate, all such steps as may be requisite to secure that the vesting in the transferee by virtue of the transfer or pension instrument of any foreign property, right or liability is effective under the relevant foreign law.
- (3) Until the vesting in the transferee, by virtue of the transfer or pension instrument, of any foreign property, right or liability is effective under the relevant foreign law, it shall be the duty of the transferor to hold that property or right for the benefit of, or to discharge that liability on behalf of, the transferee.
- (4) Nothing in subsections (2) and (3) above shall be taken as prejudicing the effect under the law of any part of the United Kingdom of the vesting in the transferee by virtue of a transfer or pension instrument of any foreign property, right or liability.
- (5) The transferor shall have all such powers as may be requisite for the performance of his duty under this section, but it shall be the duty of the transferee to act on behalf

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of the transferor (so far as possible) in performing the duty imposed on the transferor by this section.

- (6) References in this section to any foreign property, right or liability are references to any property, right or liability as respects which any issue arising in any proceedings would have been determined (in accordance with the rules of private international law) by reference to the law of a country or territory outside the United Kingdom.
- (7) Duties imposed on the transferor or the transferee by this section shall be enforceable in the same way as if the duties were imposed by a contract between the transferor and the transferee.
- (8) Any expenses incurred by the transferor under this section shall be met by the transferee.
- (9) In this section “transfer or pension instrument” has the same meaning as in section 412 above.