
STATUTORY INSTRUMENTS

1972 No. 171

LONDON GOVERNMENT

**The London Authorities (Transfer of
Housing Estates Etc.) (No. 1) Order 1972**

<i>Made</i>	- - - -	<i>10th February 1972</i>
<i>Laid before Parliament</i>		<i>18th February 1972</i>
<i>Coming into Operation</i>		<i>13th March 1972</i>

Whereas the Greater London Council and the councils of certain London boroughs have requested the Secretary of State for the Environment to provide by an order under section 23(3) of the London Government Act 1963 for the transfer of certain housing accommodation for the time being vested in the Greater London Council;

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

And whereas the Secretary of State is required by the said section 23(3) to give effect to those terms;

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 for the Environment, in exercise of his powers under section 23(3), 84 and 85 of the London Government Act 1963 and all other powers enabling him in that behalf, hereby makes the following order:—

Title, commencement and interpretation

1. This order may be cited as the London Authorities (Transfer of Housing Estates etc.) (No. 1) Order 1972, and shall come into operation on 13th March 1972.

2.—(1) The Interpretation Act 1889 shall apply for the interpretation of this order as it applies for the interpretation of an Act of Parliament.

(2) In this order—

“the deposited Schedule” means the Schedule “Properties transferred by article 3 of the London Authorities (Transfer of Housing Estates etc.) (No. 1) Order 1972” prepared in duplicate and signed by an Assistant Secretary in the Department of the Environment and as to which further provision is made in article 3(2);

“officer” includes the holder of any place, situation or employment;

“relevant date” means the date indicated in the deposited Schedule in respect of each estate or part of estate, being a date not later than 31st March 1973, on which the properties in that estate or part of estate are by article 3 transferred to a transferee authority.

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

“transferee authority”, in relation to housing accommodation transferred by article 3, means the London borough council to whom that accommodation is so transferred.

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

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

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

Transfer of property

3.—(1) On the relevant date any property described in any Part of the deposited Schedule and all liabilities (other than those liabilities described in article 13(3) of and Part III of Schedule 1 to this order) attaching to the Greater London Council in respect of any such property shall by virtue of this order be transferred to and vest in or attach to the authority named in the description of such Part, and—

- (a) 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 Greater London Council in respect of such property and liabilities shall be of full force and effect in favour of, or against, the authority named as aforesaid; and
- (b) any action or proceeding or any cause of action or proceeding, pending or existing at the relevant date, by, or against, the Greater London 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 authority named as aforesaid.

(2) One duplicate of the deposited Schedule is deposited in the offices of the Secretary of State and the other in the offices of the Greater London Council. Copies of the deposited Schedule have been deposited with the transferee authorities and shall be open to inspection at all reasonable times.

4. Any property or liability transferred by article 3 to the authority for any area shall be held or discharged by them in respect of the area.

5. Any byelaws in force for the regulation of any property transferred by the said article shall have effect as if they had been made by the authority to whom such property is transferred.

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

7. 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 a public body or on any particular revenues or fund of such body is transferred to another public body, the liability or part of the liability shall be charged indifferently on all the revenues of the public body to whom it is transferred and shall cease to be a charge on any revenues or fund of the public body from whom it is transferred.

In this article, ‘public body’ and ‘revenues’ have the same meanings as in the Local Government Act 1933.

Covenants affecting property

8. Unless the Greater London Council and the transferee authority otherwise agree, section 62 of the Law of Property Act 1925 (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 property transferred by article 3; and
- (b) in respect of any property, being property vested in the Greater London 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.

9.—(1) This article applies to any land within the extent of an area of housing accommodation transferred by article 3, being land in respect of which the Greater London Council have powers under section 151 of the Housing Act 1957 to enforce covenants entered into on the sale or exchange of land.

(2) In respect of any land to which this article applies—

- (a) the Greater London Council shall consult with the transferee authority before exercising their powers under the said section 151;
- (b) the transferee authority may require the Greater London Council to exercise the said powers in any case where such exercise is requisite in the interests of the area of housing accommodation within the extent of which the land is situated.

(3) The Greater London Council shall notify the transferee authority of any land to which this article applies and provide sufficient particulars of the covenants to which the said section 151 relates.

10. Any covenant (not being a covenant affected by article 9) which would be enforceable by the Greater London Council immediately before the relevant date in respect of land within the extent of an area of housing accommodation transferred by article 3, being land which was sold or exchanged by the Greater London Council or by the London County Council and, immediately before such sale or exchange, was held by them for the purposes of the Housing Act 1957 or of any Act re-enacted by that Act, shall be of full force and effect in favour of the transferee authority.

Rent books

11. Until a new rent book is issued by a transferee authority in respect of any housing accommodation transferred by article 3, notification to the tenant of the said of accommodation of that transfer shall be deemed to be a compliance by the said authority as landlord with the requirements of section 2(1)(a) of the Landlord and Tenant Act 1962.

Terms of transfer of housing accommodation

12.—(1) A transferee authority shall make payments to the Greater London Council in accordance with the provisions of Part I of Schedule 1 to this order.

(2) The Greater London Council shall pay to a transferee authority sums calculated in accordance with the provisions of Part II of the said Schedule.

(3) The Greater London Council shall discharge the liabilities described in Part III of the said Schedule.

13.—(1) In respect of those properties described in paragraphs 1(a) of the Parts of the deposited Schedule liability for any payments under the terms of a contract (other than in respect of works of

repair or minor improvement) incurred before the relevant date and which, but for the transfer of the estate under article 3, would have fallen to be met by the Greater London Council on or after the relevant date, shall be met by the transferee authority.

(2) In respect of those properties described in paragraphs 1(b) of the Parts of the deposited Schedule liability for any payments. (other than in respect of works of repair or minor improvement) falling to be met by the Greater London Council after the payment of the capital sum or sums referred to in paragraph 2 of Part I of Schedule 1 to this order, shall fall on the transferee authority, and such payments shall include any loss or expense incurred by the Greater London Council which has been occasioned by—

- (a) the bankruptcy of a contractor, the making of a composition or arrangement with the creditors of such contractor, the making of a winding up order in respect of the contractor's business or undertaking, the passing of a resolution for voluntary winding up such business or undertaking or the appointment of a receiver or manager of such business or undertaking; or
- (b) the determination by the transferee authority of the employment of a contractor; or
- (c) the requirement by an architect or other nominated person, whether or not at the request of the transferee authority, of any alteration or modification of the design, quality or quantity of any work of construction.

(3) Notwithstanding the ultimate liability of the Greater London Council or the transferee authority, as the case may be, in consequence of the transfer of properties under article 3, to meet payments to a contractor under the terms of a contract where on or after the relevant date payments fall due, such payments shall be made in the first instance by the Greater London Council.

Transfer of estates yet to be completed

14. Where on the date of its transfer under article 3 an estate or part of an estate, in respect of which the Greater London Council's own direct labour organisation is carrying out the work of construction, has not been completed, the Greater London Council shall complete the work of construction in accordance with instructions by the Architect to the Greater London Council, for the time being, or such other person or persons as the Greater London Council shall nominate for that purpose, and the completion of the work of construction shall be deemed to have taken place and the Greater London Council to have satisfied the requirements of this article on the day that the said Architect or other nominated person, as the case may be, issues a certificate to the effect that in his opinion the work of construction has been completed and that any defects, shrinkages or other faults, which in his opinion it is proper for the Greater London Council to make good, have been made good.

15. Where on the date of its transfer under article 3 an estate or part of an estate, the main contractor for which is a private contractor, has not been completed or the defects liability period has not expired, the architect specified in the contract for the construction of such estate or part of an estate is to retain his functions under the contract notwithstanding that the contract is of full force and effect in favour of the transferee authority.

Nomination rights

16.—(1) The Greater London Council may nominate tenants to 100 per centum of the first lettings and of the vacancies occurring in the properties transferred by article 3 until the expiration of fifteen years from the relevant date or such other percentage or such earlier dates, as the case may be, as the Greater London Council may determine from time to time.

(2) Without prejudice to paragraph (1) of this article, the Greater London Council shall agree with a transferee authority, before 31st March 1973 terms (whether as to payment or otherwise) in respect of the nomination of tenants to the dwellings transferred.

(3) In default of agreement under paragraph (2) between the Greater London Council and a transferee authority the Secretary of State or an arbitrator appointed by him may determine what terms should be included in the arrangement.

(4) Nothing in this article shall affect any agreement as to nominations subsisting between the Greater London Council and a London borough council at the coming into operation of this order.

Transfer of staff

17.—(1) Any officer of the Greater London Council described in Part I of Schedule 2 to this order shall, on the relevant date, be transferred to the employment of the transferee authority.

(2) In Part I of Schedule 2, references to employment are references to such employment on the day preceding the relevant date.

18.—(1) The Greater London Council shall notify to each transferee authority the number of officers employed on maintenance operations within each class described in Part II of Schedule 2 to this order who are available for transfer to that authority.

(2) On receipt of a notification under paragraph (1), the transferee authority shall inform the Greater London Council of the number in each such class (not exceeding that notified) acceptable to the authority for such transfer.

(3) In respect of each transferee authority, the Greater London Council shall notify the accepted number of officers of each class described as aforesaid of their intended transfer to that authority.

(4) Any officer notified by the Greater London Council under the last foregoing paragraph shall, on the relevant date, be transferred to the employment of the transferee authority.

(5) Where, before the transfer of any officer under this article, that officer resigns from the service of the Greater London Council, that Council shall notify another officer of the like description, and paragraph (4) shall apply to such officer as it applied to the first-mentioned officer:

Provided that nothing in this paragraph shall apply where there is no such officer of the Greater London Council who would be surplus to the requirements of the Council after the date of transfer.

19.—(1) Where, immediately before the relevant date, any officer has not taken up the duties of his employment he shall be deemed, in the application of article 17 or 18, to be discharging such duties, and to be employed in connection with the area of housing accommodation at which he would be employed if he had taken up such duties.

(2) Where any officer is, immediately before the relevant date, absent from his normal duties for the purpose of undergoing training, article 17 or 18 shall apply—

(i) if it was part of the arrangements under which he is so absent that at the completion of such training he should be employed in a place, situation or employment different from the place, situation or employment which he occupied prior to the commencement of the training, as if he was, immediately before the relevant date, occupying such different place, situation or employment;

(ii) otherwise, as if he was, immediately before the relevant date, occupying the place, situation or employment which he occupied immediately prior to the commencement of such training.

(3) Where any officer is, immediately before the relevant date, absent from his normal duties otherwise than for the purpose of undergoing training he shall be deemed, in the application of article 17 or 18, to be discharging such duties, and to be discharging them in connection with the area of housing accommodation at which he normally discharges them.

20.—(1) Any question whether an officer is employed in the manner described in article 17 or 18 shall be determined by a tribunal established under section 12 of the Industrial Training Act 1964.

References to such tribunal may be made as soon as may be and in any case not later than the day preceding the relevant date.

(2) Where any question that an officer is not, or is, employed in the manner described as aforesaid is outstanding on the relevant date the officer shall not be transferred until the expiration of the second week following that in which the decision of the tribunal is notified.

Officers appointed before the relevant date

21. Where a transferee authority, before the relevant date, with the consent of the Greater London Council, appoint to hold any place, situation or employment before or as from that day any person (hereinafter referred to as “the officer”) who, but for that appointment, would fall within a description of officers in Part I or II of Schedule 2 to this order, the officer in that appointment shall be deemed to have been transferred by article 17 or 18 as appropriate and, in a case falling within article 18, he shall be included within the number of officers mentioned in paragraph (2) of that article in respect of the transferee authority.

Saving for certain staff

22. Subject to article 21, nothing in article 17 or 18 (other than article 18(5)) applies—

- (a) to any person who will, by virtue of any agreement entered into between him and any authority before the relevant date, enter into the employment of that authority on that date; or
- (b) to any person as regards any employment which is to be terminated on the day preceding the relevant date.

Secondary transfers

23. Any officer transferred by article 17 or 18 to a transferee authority may, before the expiration of three months from and including the relevant date, be transferred by the said authority with the agreement of any other such authority and of the officer to the employment of that authority, and this order shall continue to apply to him.

Protection of staff

- (a) **24.** (1) (a) Every officer transferred (or deemed to have been transferred) by article 17 or 18 to the employment of a transferee authority shall, so long as he continues in that employment by virtue of the transfer or appointment and until he is served with a statement in writing of new terms and conditions of employment, enjoy terms and conditions of employment not less favourable than those he enjoyed immediately before the relevant date. The said new terms and conditions shall be such that—

- (i) so long as the officer is engaged in duties reasonably comparable to those in which he was engaged immediately before the relevant date, the scale of his salary or remuneration, and

- (ii) the other terms and conditions of his employment,

are not less favourable than those he enjoyed immediately before the relevant date, and any question whether duties are reasonably comparable as aforesaid shall be determined by a tribunal established under section 12 of the Industrial Training Act 1964. The statement of new terms and conditions shall contain information that any question shall be so determined and as to the person and address to whom any question should be referred.

- (b) A statement of new terms and conditions of employment shall not be served in respect of any officer in relation to whom a question has been referred under article 20(1) until the decision of the tribunal has been notified.
- (c) If after service of a statement of new terms and conditions of employment upon him a question is referred in respect of an officer under article 20(1), the statement shall cease to have effect, sub-paragraph (a) of this paragraph shall have effect as if the statement had not been served, and no new statement shall be served until the decision on the question has been notified.

(2) A written statement given in accordance with section 4(1) of the Contracts of Employment Act 1963 shall not be regarded as a statement of new terms and conditions of employment for the purposes of paragraph (1) unless the statement so indicates.

Saving for dispensations

25. Any dispensation from the requirements of any regulation granted to the Greater London Council shall have effect, in relation to any officer transferred (or deemed to have been transferred) by article 17 or 18 as if it had been granted to the authority to whose employment he has been transferred (or is deemed to have been transferred).

Saving for extensions of service

26. Any extension of service under section 7(1) of the Local Government Superannuation Act 1937 effective on the relevant date in relation to an officer transferred (or deemed to have been transferred) by article 17 or 18 shall continue to have effect as if it had been made by the authority to whose employment he has been transferred (or is deemed to have been transferred).

Appointment of assessor

27. On any reference under article 20(1) or 24 the tribunal may, if they think fit, appoint a person having special knowledge or experience in relation to the subject matter of the reference to sit with them as assessor.

Superannuation

28.—(1) Where an officer who, immediately before his transfer (or deemed transfer) to an authority by article 17 or 18—

- (a) was subject to an election in consequence of which he did not participate in the benefits of the superannuation fund maintained by the Greater London Council under Part I of the Local Government Superannuation Act 1937; and
- (b) had an expectation of a gratuity payable according to years of service, that election shall remain in effect and such a gratuity shall, subject to terms and conditions which are not less beneficial, be payable by that authority in respect of his previous service and of any service rendered to that authority.

(2) Section 35 of the Local Government Superannuation Act 1937 shall apply to an expectation under this article as it applies to a right under that Act.

Protection of housing accommodation

29. Where, immediately before the relevant date, an officer of the Greater London Council occupied a dwelling (whether as a tenant or otherwise) provided by that Council in connection with, or as a term of, his employment and

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- (a) he is transferred (or deemed to have been transferred) by this order but the dwelling is not transferred by article 3; or
- (b) he is so transferred (or deemed to have been transferred) to any authority but the dwelling is transferred by article 3 to another authority; or
- (c) he is not so transferred (or deemed to have been transferred) but the dwelling is transferred by article 3,

nothing in this order shall prejudice that occupation and for the purposes of that occupation the authority in whom the dwelling is vested shall permit the authority by whom the officer is employed to deal with the dwelling as if it were vested in that authority, and that authority shall make any necessary payment to the authority in whom the dwelling is vested to take account of the occupation of the dwelling by the officer.

Payment in lieu of transfer

30. In the case of a transferee authority where the accepted number of officers for the purposes of article 18(2) is less than the notified number of such officers for the purposes of paragraph (1) of the said article, the Greater London Council may require payment from the transferee authority for a period of two years from the relevant date of sums equal to not more than one half of the basic remuneration of each such officer who has not been so accepted:

Provided that nothing in this article shall apply to the remuneration of an officer for the time being required for the normal establishment of the Greater London Council.

Arbitration

31. 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 shall apply to any arbitration under this article.

10th February 1972

Peter Walker
Secretary of State for the Environment

SCHEDULE 1

Article 12

TERMS OF TRANSFER OF HOUSING ACCOMMODATION

PART I

PAYMENTS TO THE GREATER LONDON COUNCIL

1. In respect of those properties described in paragraphs 1(a) of the Parts of the deposited Schedule, the appropriate transferee authority shall from the relevant date—

- (a) assume liability for all repayments of principal, interest and management expenses relating to the loan debt outstanding at the relevant date on the properties transferred (including the cost of the land) and due to the consolidated loans fund of the Greater London Council; and
- (b) discharge such liability by making payments to the Greater London Council of such amounts and at such times each year as shall be agreed between the Greater London Council and the transferee authority.

2. In respect of those properties described in paragraphs 1(b) of the Parts of the deposited Schedule, the Greater London Council shall remain liable for making all repayments of principal, interest or management expenses relating to the loan debt outstanding at the relevant date on the properties transferred, and the appropriate transferee authority shall with respect to such properties pay to the Greater London Council a capital sum or sums notified by the Greater London Council to the transferee authority as amounting in total to the cost of provision of the properties (including the cost of the land), such capital sum or sums to become payable either on the relevant date or, if not notified to the transferee authority by that date, on such later date or dates as may be specified by the Greater London Council.

PART II

SUMS PAYABLE BY THE GREATER LONDON COUNCIL

The Greater London Council shall pay from its Key Deposit Account to each transferee authority on or after the relevant date the sum of £1 for each property transferred on the following estates—

Estate	Authority
Dovercourt	The council of the London borough of Islington
Graham	The council of the London borough of Islington
Tremlett Grove	The council of the London borough of Islington
Weston Rise	The council of the London borough of Islington
Roundshaw	The council of the London borough of Sutton
Brindley Road Extension of Warwick estate	The council of the City of Westminster

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PART III

LIABILITIES OF THE GREATER LONDON COUNCIL

1. The Greater London Council shall remain liable for the repayment of money borrowed by them prior to the relevant date in respect of any property described in paragraphs 1(b) of the Parts of the deposited Schedule.

2. The Greater London 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 property transferred under article 3, provided that such claim—

- (a) relates to an act or breach committed before the relevant date; and
- (b) is settled for an amount in excess of £100.

3. The Greater London Council shall meet all costs of repair and minor improvements started or contracted for before the relevant date.

SCHEDULE 2

Article 17

TRANSFER OF OFFICERS

PART I

STAFF EMPLOYED IN CONNECTION WITH PROPERTY TRANSFERRED BY ARTICLE 3

Description of officers

1. The following officers, being officers employed for not less than one half of their time on duties of the specified class in connection with property transferred by article 3.—

- (a) officers engaged on the collection of rents being—
 - (i) estate officers; or
 - (ii) temporary rent collectors;
- (b) resident estate officers;
- (c) old peoples wardens; or
- (d) other officers being—
 - (i) resident caretakers and assistant caretakers;
 - (ii) resident stoker/plant attendants;
 - (iii) non-resident porters;
 - (iv) temporary relief porters; or
 - (v) cleaners.

2. Any other officers specified by the Greater London Council with the approval of the transferee authority as being officers affected by the transfer of property by article 3.

Article 18

PART II

MAINTENANCE STAFF

Assistant Gardener	Gardener chargehand
Bricklayer	Labourer
Bricklayer chargehand	Painter
Carpenter	Painter chargehand
Carpenter chargehand	Plumber
Electrician	Plumber chargehand
Gardener	

Any other officers specified by the Greater London Council with the approval of the transferee authority as being officers affected by the transfer of property by article 3.

EXPLANATORY NOTE

This Order gives effect to the terms agreed between the Greater London Council and the councils of certain London boroughs for the transfer of housing accommodation to the later councils, and makes consequential provision as to the transfer and protection of staff and other matters.