

## 1977 No. 8 (S.1)

## LOCAL GOVERNMENT, SCOTLAND

## The Local Government Area Changes (Scotland) Regulations 1977

<i>Made</i>	<i>5th January 1977</i>
<i>Laid before Parliament</i>	<i>17th January 1977</i>
<i>Coming into Operation</i>	<i>1st April 1977</i>

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In exercise of the powers conferred upon me by sections 24(1) and (2) and 216(1) and (3) of the Local Government (Scotland) Act 1973<sup>(a)</sup> and of all other powers enabling me in that behalf, I hereby make the following regulations:—

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<sup>(a)</sup> 1973 c. 65.

PART I  
GENERAL

*Title and commencement*

1. These regulations may be cited as the Local Government Area Changes (Scotland) Regulations 1977 and shall come into operation on 1st April 1977.

*Interpretation*

2.—(1) The Interpretation Act 1889<sup>(a)</sup> shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

(2) In these regulations, except where the context otherwise requires:—

“the Act” means the Local Government (Scotland) Act 1973;

“the appointed day” means the day on which the order comes into operation;

“the transferred area” means the area transferred by the order;

“area change” means the change in local authority areas effected by an order made under section 17 of the Act;

“as altered” means as altered by the order;

“local authority” means a regional, islands or district council;

“map” means the map or maps defining the transferred area and annexed and signed as relative to the order;

“officer”, in relation to any authority, includes any employee or servant;

“the order” means the order under section 17 of the Act which effects the area change;

“transferee authority” in relation to any function means the local authority exercising that function in the area by virtue of the order;

“transferor authority” in relation to any function means the local authority by which, prior to the appointed day, that function was exercisable in the area.

(3) These regulations shall have effect in relation to any area change to the extent that they are applied by the order, which may be to such extent as may be required to implement the order.

(4) In these regulations any reference to a provision identified without reference to any enactment is to a provision of these regulations and any reference to a paragraph or sub-paragraph identified by number only is to the provision bearing that number in the regulation or schedule in question.

(5) In these regulations any term used in relation to any function for which special provision is made by these regulations shall have the same meaning as in the principal enactment relating to that function.

(6) In these regulations and in the 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.

*Maps*

3.—(1) A certified copy of the map shall be deposited in the office of the Secretary of State.

(2) A certified copy of the map shall be deposited with each local authority affected by an area change and shall at all reasonable times be open to inspection

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(a) 1889 c. 63

by any person, and on payment of a reasonable fee to be determined by the local authority such person shall be entitled to a copy of or extract from the map certified by the proper officer of the local authority.

(3) In addition:—

A certified copy of the map shall be supplied to:—

- (a) the Office of the Clerk of the Parliament, House of Lords;
- (b) the Votes and Proceedings Office of the House of Commons;
- (c) the Scottish Office, London;
- (d) the Director General, Ordnance Survey, and
- (e) the Boundary Commission for Scotland.

(4) If there is in the order any discrepancy between the map and the description of the transferred area, the map shall be deemed to be correct and shall prevail.

(5) The boundaries established by the order shall be mered by ordnance survey and any boundary defined on the map by reference to proposed works which have not been executed at the time of the completion of any survey made after the appointed day shall be mered as if the boundary had not been so defined.

*General continuance of matters*

4.—(1) Subject to the provisions of these regulations, anything done prior to the appointed day in relation to the area of the transferor authority shall as from the appointed day have effect in relation to that area as reduced by the order, and subject to (2) anything done in relation to the area of the transferee authority shall as from the appointed day have effect in relation to that area as increased by the order; provided that any scheme or other provision made as respects a particular area by or under statute shall not be reduced or increased in its area of application by virtue of this provision and the Secretary of State may in any case where dispute arises direct which authority shall be responsible for the operation of that scheme or provision in relation to any particular area.

(2) Subject to the provisions of these regulations, in connection with the discharge of any function in or in relation to the transferred area, anything done or treated by virtue of any enactment as having been done by or in relation to the transferor authority or any officer appointed by them for any purpose shall as from the appointed day have effect as if done by or in relation to the transferee authority or as if that officer were an officer appointed by them, and as if any reference therein to the transferor authority were a reference to the transferee authority; and unless the context otherwise requires any reference in anything to which this paragraph applies to the transferor authority shall be read as a reference to the transferee authority.

(3) Without prejudice to its generality, the preceding paragraph applies to:—

- (a) any regulation, rule, order, scheme or other enactment;
- (b) any written agreement or arrangement, contract, deed, document or other instrument;
- (c) any determination, decision, declaration, direction, notice or resolution;
- (d) any application, proposal, representation, objection, or appeal;
- (e) any licence, permission, consent, approval, exemption, dispensation or relaxation;
- (f) any condition, requirement, obligation or debt imposed or treated as imposed on or in relation to the transferor authority;

- (g) any legal proceedings, inquiry, hearing, arbitration or other like proceeding.
- (4) Where prior to the appointed day anything effecting or relating to the transferred area has been commenced by or in relation to the transferor authority it may be carried on and completed by or in relation to the transferee authority.
- (5) Where by virtue of the order a transferred area becomes part of any region, islands area or district the powers and duties of any body or person responsible for the exercise of any statutory function other than the functions of the local registration authority under the Registration of Births, Deaths and Marriages (Scotland) Act 1965(a) in relation to the last-mentioned area shall on and after the appointed day, unless special provision to the contrary is made in the order, be extended to the transferred area, and the powers and duties of any body or person which formerly exercised any such function in relation to the transferred area shall no longer be available therein.
- (6) Subject to the provisions of these regulations, nothing in the order shall affect any appointment to any office.

*Local Acts and byelaws*

5. Where any provision of any local Act or byelaw in force on the appointed day applies in relation to the transferred area, that provision shall notwithstanding the provisions of the order continue to apply but only to the area, things or persons to which or to whom it applied before that date.

*Property*

6.—(1) Subject to the provisions of this regulation and to any agreement under section 25 of the Act which may be entered into between the transferor authority and the transferee authority, all property situated in or held for the purposes of the transferred area immediately before the appointed day by the transferor authority and used wholly or mainly for the purposes of any of its functions in the transferred area shall on that date transfer to and vest in the transferee authority to the same extent, and subject to the same rights, liabilities and obligations.

(2)(a) Where any accommodation in property in the transferred area which is not transferred by (1) has been used by the transferor authority immediately before the appointed day for the discharge of any of its functions in that area, the transferee authority shall be entitled to the use of such accommodation to the extent required for the continued discharge of those functions within the said area after that date.

(b) Where any accommodation in property transferred by (1) is being used by the transferor authority immediately before the appointed day for the discharge of any of its functions outwith the area to be transferred the transferor authority shall be entitled to the use of such accommodation to the extent required for the continued discharge of those functions in that area after the appointed day.

(c) The use of any accommodation by virtue of (2)(a) and (b) shall be for such period and on such terms as may be agreed between the authorities concerned, or by an arbiter agreed upon by the said authorities or appointed by the Secretary of State.

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(a) 1965 c. 49

(3) Where any property to which (1) applies is to be disposed of within four years after the appointed day it shall not be so disposed of without prior notification of such disposal being given to any other local authority discharging functions in the transferred area or to any authority exercising user rights in that property, provided that this paragraph shall not apply in relation to any house held for the purposes of the Housing (Scotland) Acts.

(4)(a) Where in relation to any property transferred by or in consequence of the order, any provision of any local Act or byelaw is in force on the appointed day for the regulation or protection of that property that provision shall have effect as if made by the transferee authority, and with the substitution, for any reference to the authority in whom the property was vested before the appointed day, of a reference to the authority in whom the property is vested by virtue of the order.

(b) Where any property situated in the transferred area is held by the transferor authority otherwise than for the discharge of any of its functions the Secretary of State may, on application by the transferee authority, by order determine in which authority such property shall vest on or after the appointed day.

(c) Subject to regulation 13, where immediately before the appointed day any property is held in trust by the transferor authority, or any councillor or specified officer thereof, and where by reason of the boundary changes effected by the order it is appropriate, having regard to the purposes of the trust, that that property should be held in trust by another local authority, or any councillor or specified officer of that other local authority, the Secretary of State may determine that the property be so held.

(d) Subject to regulation 13, where immediately before the appointed day any power in respect of any trust is vested in the transferor authority, or any councillor or specified officer thereof, and where by reason of the boundary changes effected by the order it is appropriate, having regard to the purposes of the trust, that that power should be vested in another local authority, or any councillor or specified officer of that other local authority, the Secretary of State may determine that the power shall so vest.

(5) For the purposes of this regulation "property" means any property, heritable or moveable and all interests, rights and liabilities in or relating to property, and includes any property held for historic or ceremonial purposes but excludes any security or balance in a fund, and for the avoidance of doubt includes any excise licence, operators' licence, public service vehicle licence, road service licence, plating certificate or other document issued in respect of any vehicle transferred by these regulations.

(6) Any dispute arising from the operation of (1) shall be referred to an arbiter agreed upon by the local authorities concerned or appointed by the Secretary of State.

#### *Finance*

7.—(1) Any liability or part of a liability relating to the transferred area which is secured on the whole funds, rates and revenues of the transferor authority shall on and after the appointed day be secured instead on the whole funds, rates and revenues of the transferee authority.

(2)(a) Where prior to the appointed day advances from a loans fund have been used by the transferor authority for any purpose in relation to the transferred area or any part thereof, the liability to pay the sums which become due in respect thereof shall on the appointed day be transferred to the transferee authority who shall make payments in respect thereof to the transferor authority.

(b) Where prior to the appointed day any advance has been made to the transferor authority for any purpose in relation to the transferred area or any part thereof from a fund established under paragraph 22 of Schedule 3 to the Local Government (Scotland) Act 1975(a) or under any other enactment, any outstanding balance in respect thereof shall on the appointed day be transferred to the transferee authority, who may treat such balance as forming part of a fund established by them under the said paragraph 22 and make such repayments to that fund as they consider appropriate, but otherwise any liability to make repayments in respect thereof shall cease.

(c) Where prior to the appointed day any payments have been made by the transferor authority for any purpose for which paragraph 25 of Schedule 3 to the Local Government (Scotland) Act 1975 provides in relation to the transferred area or any part thereof from any fund to which that paragraph applies, the provisions of sub-paragraph (2) of the said paragraph 25 shall apply to the transferee authority in relation to the repayments to such fund of the transferor authority.

#### *Duty to revise schemes*

8. Where the coming into operation of the order affects or appears likely to affect any statutory scheme or plan made prior to the appointed day by the transferor authority or the transferee authority in such a manner as to require amendment of that scheme, that authority shall have a duty to consider and review the scheme and to make any appropriate amendments or modifications thereto: provided that:—

- (i) until such time as a scheme or plan made by the transferee authority is made or extended to cover the transferred area the scheme made by the transferor authority shall continue to apply to the transferred area in accordance with the provisions of the order and of these regulations; and
- (ii) in relation to any education provision or transfer scheme both the transferor authority and the transferee authority shall continue to apply in relation to the transferred area the scheme made by the transferor authority until such time as the schemes of both authorities are amended with the approval of the Secretary of State.

#### *Determinations*

9.—(1) Where by virtue of the operation of the order and these regulations a determination by the Secretary of State imposes a duty on the transferee authority, that authority or the transferor authority may apply to the Secretary of State for a direction that the duty in question shall revert to the transferor authority and the Secretary of State may after consultation with both authorities so direct and he may provide in any such direction for the making of any financial adjustment which he considers appropriate between those authorities.

(2) Where in consequence of the operation of the order any question or dispute arises as to the authority or person responsible for any matter by virtue of any provision of the order as read with these regulations, or in relation to the application or effect of any provision of the order, that question or dispute may be determined by the Secretary of State.

## PART II FUNCTIONS

#### *Burial grounds*

10. Nothing in the order shall affect any right of burial, or any right to construct any chapel, vault or place of burial or any right of erecting and

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(a) 1975 c. 30.

placing any monument, gravestone, tablet or monumental inscription which any person may have acquired before the appointed day, or the amount of any fee payable by him in respect of any such right.

*Civil defence grants*

**11.** For the purpose of determining whether any, and if so what, deductions should be made from grants payable in accordance with regulations under section 3 of the Civil Defence Act 1948(a) to any authority, any land or article acquired by, or article provided for, any authority for the purposes of functions conferred on it by section 2 of the said Act and transferred to the transferee authority by regulation 6 shall be treated as having been acquired by or, as the case may be, provided for the transferee authority for those purposes.

*District courts*

**12.—(1)** Where proceedings with regard to a matter arising in or related to the transferred area have been instituted before the appointed day in the District Court for the commission area within which the transferred area was then situated, and have not been completed by that date, it shall be competent for those proceedings to be continued in that District Court as if the order had not been made.

(2) Where proceedings with regard to a matter arising in or related to the transferred area prior to the appointed day have not been instituted before that day in the District Court for the commission area within which the transferred area was then situated, it shall be competent for those proceedings to be instituted in the District Court for the commission area within which the transferred area is by virtue of the order situated on and after the appointed day.

*Educational endowments*

**13.—(1)** Where the benefit of an educational endowment within the meaning of Part VI of the Education (Scotland) Act 1962(b) is restricted to persons connected with a particular locality and the whole or greater part of that locality will, after the appointed day, be within the area of the transferee authority, then if, immediately prior to the appointed day, that endowment was:—

- (a) to any extent vested in the transferor authority it shall from and after the appointed day to that extent be transferred to and vest for the same purposes in the transferee authority;
- (b) to any extent vested, by virtue of his office, in the holder of any office of or connected with the transferor authority, it shall from and after the appointed day to that extent be transferred to and vest in the holder of the corresponding office of or connected with the transferee authority;
- (c) an endowment with respect to which any power was vested in the transferor authority or vested, by virtue of his office, in the holder of any office of or connected with the transferor authority, that said power shall from and after the appointed day be transferred to and vest in the transferee authority or, as the case may be, the holder of the corresponding office of or connected with the transferee authority.

(2) Subject to the provisions of the governing instrument of the endowment where, by virtue of the order, it is necessary for a person to be nominated by the transferee authority or by a committee thereof to be vested to any extent with

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(a) 12, 13 & 14 Geo. 6. c. 5

(b) 1962 c. 47



the endowment or to be vested with any power, that person shall be so nominated at the first meeting of the transferee authority or the committee thereof held after the appointed day; and, in such a case, the person who to the said extent was last vested with the endowment or, as the case may be, was last vested with the power, before the meeting shall continue therein until the date of the meeting.

#### *Electoral registers*

**14.** For the purposes of any election for any electoral area affected by an area change the registration officer shall make such consequential alterations to the register as are necessary for the purposes of the election, and any expenses necessarily incurred by him solely for the purposes of this regulation shall be defrayed by his local authority.

#### *Fire services*

**15—(1)** Where a report, complaint or other allegation is received before the appointed day from which it appears that an officer may have committed an offence against discipline, within the meaning of any regulations in force under section 17(1) of the Fire Services Act 1947<sup>(a)</sup>, then any investigation and any disciplinary proceedings, including any appeal, arising therefrom under any such regulations may be continued as if the alleged offence had been committed while he was a member of the fire brigade to which he has been transferred by virtue of the order; provided that if the fire brigade from which the officer was transferred continues to exist on and after the appointed day, the firemaster of that fire brigade may postpone the transfer of the officer for the purpose of facilitating the investigation of the matter and any disciplinary proceedings arising therefrom, including any appeal, and the provisions of the order shall apply in his case as if for any reference therein to the appointed day there were substituted a reference to such day as may be determined by that firemaster after consultation with the firemaster of the fire brigade to which the officer falls to be transferred by virtue of the order.

(2) Without prejudice to section 27(4) of the Fire Services Act 1947, in relation to an officer in whose case the Firemen's Pension Scheme for the time being in force under section 26 of the said Act had effect immediately before the appointed day subject to the modifications set out in section 27(3) thereof, the fire brigade from which he was transferred and the fire brigade to which he has been transferred shall be treated as one for the purposes of section 27(2).

(3)(a) An officer shall, so long as he continues to be a member of the fire brigade to which he was transferred and until he has been served with a statement in writing referring to the order and specifying new terms and conditions of employment, enjoy terms and conditions of employment not less favourable than those which he enjoyed immediately before the appointed day.

(b) Regulation 23(2) to (7) shall apply to the statement referred to in (3)(a) with the substitution of a reference to (3)(a) for the reference in regulation 23(4) to paragraph (1) thereof.

(4) In any case where a fire area affected by the order is a combined area, the provisions of these regulations shall have effect as if for any reference to the transferor authority or the transferee authority as the case may be there were substituted a reference to the fire board constituted by the relevant administration scheme.

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(a) 1947 c. 41.

*Housing—capital accounts*

**16.—(1)** Where in accordance with regulation 6 any property situated in the transferred area and held immediately before the appointed day by the transferor authority under the Housing (Scotland) Acts is transferred to the transferee authority, any balance or part of a balance relating to that property on a capital account at the appointed day shall be transferred with the property and the transferee authority shall enter such balance in their accounts.

**(2)** Where property to which (1) applies forms only part of the property to which a total balance relates and where the part of the balance relating thereto cannot be separately identified—

**(a)** if the balance relating to houses provided by the transferor authority under any enactment empowering the provision of such houses can be separately identified, the proportion of such balance to be transferred shall be calculated by reference to the proportion which the number of houses provided by that authority under that enactment in the transferred area bears to the total number of such houses situated within the area of the transferor authority;

**(b)** in any other case the proportion of the total balance to be transferred shall be calculated by reference to the proportion which the total of the gross annual values of that property in the transferred area bears to the total of the gross annual values of that property situated in the area of the transferor authority; and for the purposes of this paragraph the values shall be calculated according to the gross annual values appearing in the valuation roll at 31 March in the preceding year.

**(3)** Any balance or part of a balance on a capital account at the appointed day relating to grants provided by the transferor authority in respect of houses in the transferred area shall be transferred to the transferee authority; and where such part of a balance cannot be separately identified, the proportion of the total balance to be apportioned to the transferee authority shall be that which the number of houses situated within the transferred area in respect of which grants have been given bears to the number of such houses situated in the area of the transferor authority.

**(4)** For the purposes of this regulation, references to the area of the transferor authority are to that area as it existed immediately prior to the making of the order; and references to a capital account include any capital part of a borrowing account.

*Housing subsidies*

**17.—(1)** Section 3 of the Housing (Financial Provisions) (Scotland) Act 1972

**(a)** shall have effect in relation to the year commencing with the appointed day as if:—

**(a)** the expenditure of the transferor authority for the year immediately preceding the appointed day excluded the same proportion of the expenditure debited to the housing revenue account of that authority for that year as that which the capital balances transferred to the transferee authority on the appointed day in respect of houses to which the housing revenue account relates in accordance with regulation 16 bears to the capital balances on that date of the transferor authority;

**(b)** the number of houses to which the housing revenue account of the transferor authority relates for the immediately preceding year excluded the

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**(a)** 1972 c. 46

number of houses transferred to the transferee authority on the appointed day in accordance with regulation 6;

- (c) the expenditure of the transferee authority for the year immediately preceding the appointed day included the amount excluded from the expenditure of the transferor authority by virtue of (1)(a); and
- (d) the number of houses to which the housing revenue account of the transferee authority related for the year immediately preceding the appointed day included the houses transferred from the transferor authority on the appointed day in accordance with regulation 6.

(2) There shall be apportioned to the transferee authority the same proportion of the housing expenditure subsidy which would have been payable to the transferor authority for the year commencing on the appointed day and subsequent years in relation to any qualifying amount for any year prior to the appointed day as that which the total of the capital balances transferred from the transferor authority to the transferee authority under regulation 16(1) and (2) bears to the total of the capital balances of the transferor authority taken into account for the purposes of calculating the total balance to be transferred under those provisions.

(3) In this regulation "qualifying amount" has the same meaning as in section 3 of the Housing (Financial Provisions) (Scotland) Act 1972 as amended.

#### *Police*

**18.—(1)** When any area is transferred from a police area, the appropriate part of any register kept in pursuance of any enactment relating to police shall be transferred, as soon as may be after the appointed day, to the police area to which the area is transferred and as from that day shall be deemed to form part of the corresponding register kept for that area.

(2) Where a report or allegation is received before the appointed day from which it appears that a constable may have committed an offence against discipline within the meaning of any regulations in force under section 26 of the Police (Scotland) Act 1967(a), any investigation and any disciplinary proceedings, including any appeal to the Secretary of State for Scotland under section 30 of the Police (Scotland) Act 1967, may be continued as if the alleged offence had been committed while he was a constable of the police force to which he has been transferred, provided that if the police force from which the constable was transferred continues to exist on or after the appointed day the chief constable of that police force may postpone the transfer of the constable for the purpose of facilitating the investigation of the matter, and any disciplinary proceedings arising therefrom, including any such appeal, and the provisions of the order shall apply in his case as if for any reference therein to the appointed day there were substituted a reference to such day as may be determined by that chief constable after consultation with the chief constable of the police force to which the constable was transferred.

(3)(a) Any constable and any other officer employed for police purposes, including the purposes of section 81 of the Road Traffic Regulation Act 1967(b), and transferred by the order, shall so long as he continues to be an officer or servant of the body to which he is transferred and until he is served with a statement in writing referring to the order and specifying new terms and conditions of employment, enjoy terms and conditions of employment not less favourable than those which he enjoyed immediately before the appointed day.

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(a) 1967 c. 77

(b) 1967 c. 76

(b) Regulation 23(2) to (7) shall apply to the statement referred to in (3)(a) with the substitution of a reference to (3)(a) for the reference in regulation 23(4) to paragraph (1) thereof.

(4) In any case where a police area affected by the order is a combined area, the provisions of these regulations shall have effect as if for any reference to the transferor authority or the transferee authority as the case may be there were substituted a reference to the joint police committee constituted under the relevant amalgamation scheme.

#### *Valuation*

19.—(1) The assessor of a valuation area shall make such alterations to the valuation roll as appear to him to be necessary as a result of the order to distinguish in that roll the lands and heritages situated within the boundaries of each district in the valuation area.

(2) Where in relation to any appeal or complaint any person has prior to the appointed day been cited to appear before a valuation appeal committee that appeal or complaint shall continue before that committee as if the order had not been made.

#### *Valuation of water undertakings*

20.—(1) For the purposes of the apportionment of the cumulo rateable value of a water undertaking among rating areas under paragraphs 17 to 21 of Schedule 2 to the Local Government (Scotland) Act 1966(a) in relation to any financial year beginning on or after the appointed day the area change made by the order shall be deemed to have been operative at all times material to the determination of that rateable value.

(2) In this and the preceding regulation expressions used shall have the same meaning as in the Lands Valuation (Scotland) Act 1854(b), the Acts amending that Act and any other Act relating to valuation.

### PART III

#### TRANSFER AND PROTECTION OF STAFF

##### *Schemes for transfer of officers*

21.—(1) Not later than 2 months before the appointed day the transferee authority may notify the transferor authority that the transferor authority requires to make a scheme for the allocation of officers to the transferee authority on the basis of the likely needs of the services to be provided on and after the appointed day within the transferred area and the transferor authority shall thereupon make not later than 6 weeks before the appointed day such a scheme in respect of officers who are engaged wholly or mainly on duties relating to functions which will be dischargeable within the transferred area by the transferee authority on the appointed day.

(2) Subject to (1), the transferor authority may make a scheme for the allocation of officers for transfer in such circumstances as it considers appropriate in relation to the transferred area.

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(a) 1966 c. 51

(b) 1854 c. 91

- (3) Nothing in this regulation or regulations 22 to 27 applies to any officer of a transferor authority who will by virtue of an agreement entered into between him and a transferee authority enter into the employment of such transferee authority on or before the appointed day.
- (4) In preparing a scheme under (1) or (2) (in this and the next two succeeding regulations referred to as a “scheme”) the transferor authority shall:—
- (a) consult the local authorities to whom the officers are likely to be allocated for transfer, bodies representative of such officers, and any other local authority appearing to the transferor authority to be concerned;
  - (b) inform all officers who are likely to be allocated for transfer of such likelihood and advise them of the provisions of this regulation and regulations 22 and 23; and
  - (c) take into consideration any representation by any officer referred to in (4)(b).
- (5) Having made a scheme the transferor authority making it shall:—
- (a) transmit copies to the transferee authority and to the bodies representative of the officers concerned; and
  - (b) notify all officers allocated for transfer of their allocations and, where not already notified, of the provisions of this regulation and regulations 22 and 23.
- (6) If any affected local authority is dissatisfied with the provision of any scheme as made it may within 14 days of receiving notification of the scheme give notice to that effect to the transferor authority and the matter shall be determined by agreement between the local authorities concerned or failing such agreement by the decision of a person to be agreed by the authorities concerned or failing such agreement appointed by the Secretary of State.
- (7) Where any determination referred to in (6) gives rise to any variation of the scheme the transferor authority shall vary the scheme in accordance with the determination and shall forthwith:—
- (a) transmit copies of the scheme as varied to the local authorities concerned and to bodies representative of staff; and
  - (b) notify every officer affected by the variation and, unless already notified, of the provisions of this regulation and regulations 22 and 23.
- (8) Any officer affected by a scheme may appeal against the scheme within 14 days of receipt of the notification referred to in (5), or as the case may be (7), and such appeal shall be determined in accordance with the arrangements applicable to the determination of disputes as to the employment and the terms and conditions thereof between the officer and the transferor authority and on the determination by the appeal body any necessary amendment of the scheme shall be made by that body.

*Transfer of officers*

**22.**—(1) Subject to (2) and to the determination of any appeal under regulation 21(8), an officer allocated by a scheme or by a determination under 21(6) shall to the extent of the allocation be transferred on the appointed day to the transferee authority.

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- (2) An officer allocated by a determination under regulation 21(6) made after the appointed day shall be transferred within 28 days of the date of the determination or on such other date as may be agreed by the authorities concerned.
- (3) Any transfer effected by this regulation of an officer not in the whole-time employment of the transferor authority shall be limited to the extent of his employment with that authority.
- (4) Where any officer allocated who would otherwise be transferred by (1) and (2) is absent from his normal duties at the date of transfer for the purpose of undergoing training such officer shall be transferred to the authority to whom he has been allocated as if it was part of the arrangements under which he is so absent that at completion of such training he should be transferred to the employment of that authority.
- (5) Where an appeal determination establishes that a transferred officer will sustain hardship in consequence of the transfer the transferee authority shall in consultation with the officer and bodies representative of employees seek a remedy, and not later than the expiration of one month (or such longer period as may be agreed by the officer) following the notification of the determination notify the officer of any remedy which they are able to offer to him or that they are unable to offer him any remedy but that an allowance will be paid to him in respect of the hardship and that in either event he may request that his employment be terminated and his entitlements if it is so terminated.
- (6) A remedy offered under (5) may be accepted by the officer within two months following the notification thereof or within such longer period as may be agreed by the transferee authority.
- (7) An allowance in respect of hardship shall be made by periodic payments of such amount as shall be determined by agreement between the officer and the transferee authority or failing such agreement in accordance with the arrangements applicable to the determination of disputes as to employment and terms and conditions thereof between them.
- (8) A request for termination of employment by an officer in terms of (5) shall be made within 2 months from the determination of the amount of the periodic payments of the allowance.
- (9) Regulation 25 hereof shall not apply to any officer to whom an allowance is payable under this regulation.
- (10) If the remedy offered is transfer back to the transferor authority and the transferee authority agrees to this, regulation 23(11) and regulations 24 to 26 shall cease to apply to the officer if the remedy is accepted by him and he is so transferred back.

*Protection of officers*

**23.—**(1) Every officer transferred to the transferee authority shall, so long as he continues in that employment by virtue of the transfer and until he is served with a statement in writing referring to these regulations and specifying new terms and conditions of employment, enjoy terms and conditions of employment not less favourable than those which he enjoyed immediately before the date of transfer.

(2) Subject to (3) a statement of new terms and conditions of employment shall be served on every officer transferred before the expiry of 12 months after the date of transfer.

(3) A statement of new terms and conditions of employment shall not be served on any officer by whom an appeal has been made under regulation 21(8) where its determination is in terms of regulation 22(5), until the remedy offered or allowance therein referred to has been accepted by the officer.

(4) If after service of a statement of new terms and conditions of employment upon a transferred officer an appeal is made under regulation 21(8) the statement shall cease to have effect and (1) and (3) shall have effect as if the statement had not been served.

(5) The new terms and conditions of employment shall be such that:—

(a) so long as the officer is engaged in duties reasonably comparable to those in which he was engaged immediately before the date of transfer the scale of his salary or remuneration is not less favourable than that which he enjoyed immediately before that date; and

(b) the other terms and conditions of his employment are not less favourable than those which he enjoyed immediately before the date of transfer.

(6) Where between the date of transfer and the service of the statement of new terms and conditions of employment upon any officer the scale of the salary or remuneration which such officer enjoyed immediately before the date of transfer is improved, (5)(a) shall have effect as if the scale as improved had been enjoyed immediately before the date of transfer.

(7) Where the new terms and conditions of employment involve any diminution of the scale of the salary or remuneration of an officer they shall not come into effect until a date to be specified in the statement being not earlier than the expiry of 3 months from the date of service of the statement.

(8) Any question by an officer as to:—

(a) whether duties are reasonably comparable within the meaning of (6);

(b) whether the scale of his salary or remuneration is such as is required by (6) and (7); or

(c) whether the other terms and conditions of his employment are not less favourable than those which he enjoyed immediately before the date of transfer,

shall be determined in accordance with the arrangements applicable to the determination of disputes as to employment and terms and conditions thereof between the officer and the transferee authority.

(9) Any statement of new terms and conditions of employment shall contain a statement of the provisions of (8).

(10) A written statement given in accordance with section 4(1) of the Contracts of Employment Act 1972(a) shall not be regarded as a statement of new terms and conditions of employment for the purposes of this regulation unless the statement so indicates.

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(a) 1972 c. 53.

(11) A notice to terminate the contract of employment of any officer transferred by regulation 22 given by reason of the fact that the officer to whom it is given has become redundant in consequence of the order shall, unless such officer otherwise agrees, not come into operation earlier than the expiration of 3 months from the service thereof.

(12) In this regulation, "terms and conditions of employment" includes any restriction arising by or under any Act on the termination of the employment of any officer.

*Secondary transfers*

24. Any officer transferred by regulation 22 to the employment of a transferee authority may, within the 2 years following the date of transfer, be transferred by the said authority, with the agreement of any other authority, and of the officer, to the employment of that other authority, and regulation 23 shall thereupon apply to that officer as it applies to an officer transferred by regulation 22.

*Travelling and removal expenses*

25. Any additional travelling expenses, and any removal or incidental expenses, reasonably incurred by any officer in consequence of being transferred shall be reimbursed by the local authority to whose employment he is transferred by regulation 22 or 24.

*Commencing points on scales*

26. Where in relation to any officer transferred by regulation 22 or 24:—

- (a) he would on the scale of salary or remuneration applicable to him immediately before the date of transfer have become entitled to an increment on that day; or
- (b) any other scale of salary or remuneration becomes applicable to him as from that date by reason of any appointment effective as from the date of transfer made by the local authority to whose employment he is transferred;

any term of his employment as to his commencing point on such other scale shall be applicable as if his employment before and on and after the said date were one continuous employment under one authority.

*Continuity of employment*

27. Where, apart from this regulation, an officer's continuity of employment would be broken by any transfer by regulation 22 or 24 then nevertheless, for the purposes of the Redundancy Payments Act 1965(a), section 28 of the Industrial Relations Act 1971(b) as re-enacted in paragraph 10 of Schedule 1 to the Trade Union and Labour Relations Act 1974(c), sections 1 and 2 of the Contracts of Employment Act 1972 and section 61 of the Employment Protection Act 1975(d):—

- (a) in the case of any officer transferred by regulation 22, the period of his employment in the employment from which he is transferred shall count as a period of employment in the employment to which he is so transferred;

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(a) 1965 c. 62.  
(c) 1974 c. 52.

(b) 1971 c. 72.  
(d) 1975 c. 71.



- (b) in the case of an officer further transferred by regulation 24, the period of his employment in the employment from which he is transferred and the period of his employment in the employment to which he is transferred by regulation 22 shall count as a period of employment in the employment to which he is so further transferred; and
- (c) no change of employment covered by (a) or (b) shall break the continuity of the period of employment.

*Appointment of officers before appointed day*

**28.**—(1) Where before the appointed day the transferee authority appoints to hold any office or employment before or as from that day any officer who is in the employment of the transferor authority, the appointment shall be on such terms and conditions that:—

- (a) so long as the officer is engaged in duties reasonably comparable to those in which he was engaged immediately before the appointment, the scale of his salary or remuneration; and
  - (b) the other terms and conditions of his employment,
- are not less favourable than those he enjoyed immediately before the appointment.

(2) Any question by the officer as to:—

- (a) whether duties are reasonably comparable as aforesaid, or
- (b) whether the scale of his salary or remuneration or the other terms and conditions of his employment are not less favourable than those which he enjoyed immediately before the appointment,

shall be determined in accordance with the arrangements applicable to the determination of disputes as to employment and terms and conditions thereof between the officer and the transferee authority.

(3) In this regulation, “terms and conditions of employment” includes any restriction arising by or under any Act on the termination of the employment of any officer.

#### PART IV

##### MISCELLANEOUS

*Councillors*

**29.**—(1) No person in office on the appointed day as a member of any local authority or of any joint board or joint committee or of any committee of any such body shall during the term for which he was elected lose his qualification for membership by reason of the area change.

(2) In relation to the qualification of any person to be elected and to be a member of any regional, islands or district council, or of any committee, joint board or joint committee, the order shall be deemed, for the purposes of section 29 of the Act, to have been in operation during the whole of the twelve months preceding the day on which he is nominated as a candidate within the meaning of that section.

(3) Any councillor who immediately prior to the appointed day represents an area transferred from any region, islands area or district shall, except in the case of the transfer of a complete electoral area, continue to hold office notwith-

standing the area change until the date on which he would have retired if the order had not been made and any casual vacancy arising in relation to such an area shall be filled accordingly; provided that in the case of the transfer of a complete electoral area such councillor shall become a member of the transferee authority, the membership of that authority shall be increased accordingly, and the membership of the transferor authority shall be reduced accordingly.

*Honorary freedoms*

**30.** Nothing in the order shall affect the status of any person who is immediately before the appointed day an honorary freeman of any place which is an islands area or district formerly having the status of a city, burgh or royal burgh or of any body which at such time enjoys privileges of a similar nature to honorary freedom of any such place.

*Justices of the peace*

**31.—(1)** Where immediately before the appointed day a justice of the peace resided in the transferred area and held office for the commission area which included that area, he shall hold office on and after the appointed day for the commission area which by virtue of the order includes that area as if appointed thereto in accordance with section 9(2) of the District Courts (Scotland) Act 1975(a).

(2) Where immediately before the appointed day a justice of the peace:—

- (a) resided in the transferred area but held office for a commission area in which he did not reside, or
- (b) regularly exercised his functions in the transferred area but held office for a commission area which did not include that area,

he shall, unless the Secretary of State otherwise directs, continue to hold office on and after the appointed day for the commission area for which he held office immediately before that day; and where such a direction is made that justice shall hold office for the commission area specified in the direction as if appointed thereto in accordance with section 9(2) of the District Courts (Scotland) Act 1975.

*BRUCE MILLAN*

One of Her Majesty's Principal  
Secretaries of State.

New St Andrew's House,  
EDINBURGH.  
5th January 1977.

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(a) 1975 c. 20.

**EXPLANATORY NOTE**

*(This Note is not part of the Regulations)*

Section 17(2) of the Local Government (Scotland) Act 1973 makes provision for changes of local government areas to be effected by orders. Section 24(1) and (2) of that Act empowers the making of incidental, consequential, transitional or supplementary provision for the purposes or in consequence of such orders, by regulations of general application. These Regulations contain such provision.

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