
STATUTORY INSTRUMENTS

1979 No. 1737

LONDON GOVERNMENT

The Greater London Council Housing
(Staff Transfer and Protection) Order 1979

<i>Made</i>	- - - -	<i>21st December 1979</i>
<i>Laid before Parliament</i>		<i>21st December 1979</i>
<i>Coming into Operation</i>		<i>2nd January 1980</i>

The Secretary of State for the Environment, in exercise of his powers under sections 84 and 85 of the London Government Act 1963 and of all other powers enabling him in that behalf, hereby makes the following order:—

Title and commencement

1. This order may be cited as the Greater London Council Housing (Staff Transfer and Protection) Order 1979, and shall come into operation on 2nd January 1980.

Interpretation

2.—(1) In this Order—

“the Act” means the London Government Act 1963;

“the appointed day” means—

(a) in relation to an officer transferred by or under Article 6 to the employment of a transferee authority—

(i) the day upon which land or housing accommodation is transferred to that authority by a transfer of property order, or

(ii) where land or housing accommodation is transferred to that authority by a transfer of property order on two or more days, the first such day, subject as provided in article 5(1); and

(b) in relation to an officer transferred under article 8 to the employment of a relevant authority, the day upon which he is so transferred;

“officer”, in relation to any authority, includes the holder of any office or employment under that authority;

“relevant officer” means an officer of the Greater London Council or, in the case of an officer transferred under article 8 from the employment of a transferee authority, that authority who—

- (a) immediately before the appointed day—
 - (i) is employed wholly or mainly in connection with the discharge of the Greater London Council's functions as a local authority under the Housing Act 1957 or, in the case of an officer transferred under article 8 from the employment of a transferee authority, the functions of that authority;
 - (ii) has not taken up the duties of his employment, but had he done so would be employed as mentioned in (i) above; or
 - (iii) is absent from his normal duties, whether for the purpose of training or otherwise, and, were he not so absent, would be employed as mentioned in (i) above;
- (b) will not, on the appointed day, enter into the employment of a transferee authority by virtue of any agreement entered into between him and that authority (other than an agreement under article 8); and
- (c) is not an officer whose employment is to be terminated on or before the appointed day, otherwise than by virtue of a transfer of land or housing accommodation as mentioned in article 3 or his transfer under article 8;

“scheme” means a scheme made under article 4;

“terms and conditions of employment” include any restriction which arises under any Act or instrument made under any Act on the termination of the employment of any officer; and shall, for the purposes of articles 7 and 15, include such a restriction, notwithstanding repeal or revocation of the Act or instrument under which it arose;

“transfer of property order” means an order under section 23(3) of the London Government Act 1963, made after 31st March 1979, which transfers land or housing accommodation to a transferee authority; and

“transferee authority” means a London borough council or district council.

(2) In this order, unless the context otherwise requires, any reference to an article shall be construed as a reference to an article in this order, any reference to a paragraph shall be construed as a reference to a paragraph in the same article and any reference to a sub-paragraph shall be construed as a reference to a sub-paragraph in the same paragraph.

Application

3. This order shall apply where land or housing accommodation is to be transferred to a transferee authority by a transfer of property order.

Schemes for the allocation of officers for transfer

4. The Greater London Council shall make a scheme for the allocation of relevant officers for transfer to each transferee authority, to whom land or housing accommodation is to be transferred by a transfer of property order, in accordance with the provisions of article 5.

Provision as to schemes

5.—(1) Where land or housing accommodation is to be transferred to an authority by a transfer of property order on two or more days, a scheme may specify that, in relation to any officer allocated for transfer to that authority, the appointed day shall be one of those days.

(2) Each scheme shall take into account any arrangements or agreements that may have been made under section 101 or 113 of the Local Government Act 1972.

(3) In preparing a scheme the Greater London Council shall—

- (a) consult the transferee authority and representative bodies, and

- (b) (i) notify any officer likely to be allocated for transfer of such likelihood, and supply to him a copy of this order, and
 - (ii) take into consideration any representations made by such officer.
- (4) Upon making a scheme the Greater London Council shall—
 - (a) transmit copies thereof to the transferee authority and representative bodies, and
 - (b) supply to every officer thereby allocated a copy of the scheme and (unless such copy has already been supplied) a copy of this order.
- (5) Any scheme may, subject as mentioned in paragraph (6), be amended by the Greater London Council, but—
 - (a) no substantive amendment shall be made without consultation with the transferee authority and representative bodies, and
 - (b) upon making any amendment, the Greater London Council shall—
 - (i) transmit copies of the scheme as amended, or of the amendment, to the transferee authority and representative bodies, and
 - (ii) supply to every officer affected by the amendment particulars of his allocation and (unless such copy has already been supplied) a copy of this order.
- (6) No officer shall be allocated for transfer unless the action described in paragraph 3(b) has been taken in relation to him.
- (7) If notice is given by a transferee authority that they are dissatisfied with the provisions of a scheme as made or amended—
 - (a) the question shall be determined—
 - (i) by agreement between that authority and the Greater London Council, or
 - (ii) failing agreement as mentioned in (i) above, by a person agreed on by those authorities, or
 - (iii) in default of agreement as mentioned in (ii) above, by a person appointed by the Secretary of State;
 - (b) section 31 of the Arbitration Act 1950 shall have effect for the purpose of the determination of a question under sub-paragraph (a)(ii) or (iii) as if such determination were an arbitration under any other Act within the meaning of that section; and
 - (c) upon a determination under this paragraph which involves a variation of a scheme, the Greater London Council shall vary it in accordance with the determination and—
 - (i) transmit copies of the scheme as varied, or of the variation, to the transferee authority and representative bodies, and
 - (ii) supply to every officer affected by the variation particulars of his allocation and (unless such copy has already been supplied) a copy of this order.
- (8) In any scheme, any allocation of a person not in the whole-time employment of the Greater London Council shall be limited to the extent of his employment with that council.
- (9) Any question by a relevant officer in relation to the application of a scheme to him shall be raised and determined as described in article 17, and on the determination of such question the Greater London Council shall make any necessary amendment of the scheme.
- (10) In this article, “representative bodies” means—
 - (a) for the purposes of paragraphs (3), (4) and (5), bodies representative of transferee authorities and bodies representative of officers, and
 - (b) for the purposes of paragraph (7), bodies representative of officers,

which appear to the Greater London Council to be concerned.

Transfer of officers

6.—(1) Subject as mentioned in paragraphs (3) and (4), every officer allocated by a scheme for transfer to a transferee authority shall, to the extent of the allocation, be transferred on the appointed day to the employment of that authority.

(2) Any question by an officer allocated by a scheme for transfer, that he will sustain or has sustained hardship in consequence of his transfer, shall be raised and determined as described in article 17.

(3) Where a question under paragraph (2) or article 5(9) is raised—

- (a) the officer who raised the question shall be transferred, further transferred or not transferred, as the case may be, in accordance with the determination under article 17; and
- (b) if the determination is that he be—
 - (i) transferred, he shall be transferred on the appointed day or on the expiration of 2 months from the date of the determination, whichever is the later; or
 - (ii) further transferred, he shall be so transferred on the expiry of 2 months from the date of the determination,

or on such other date as may be agreed between the authorities concerned and the officer.

- (a) (4) (a) Where, before the appointed day, any question described in paragraph (2) or article 5(9) is determined in such manner that transfer of an officer in accordance with the provisions of paragraph (1) is appropriate and, before, on or after the appointed day, it is determined that he will sustain or has sustained hardship in consequence of his transfer (which determination is, in this sub-paragraph, referred to as the “determination of hardship”), the authority by whom he is employed on the date of the determination of hardship shall in consultation with the officer and representatives of their employees seek a remedy and, not later than the expiration of two months (or such longer period as may be agreed by the officer) following notification of the determination of hardship, notify the officer—
 - (i) of any remedy which they are able to offer him, or
 - (ii) that they are unable to offer him any remedy, but that an allowance would be paid to him in respect of the hardship.
- (b) In either event, the officer shall be informed—
 - (i) that he may, subject to sub-paragraph (e), request that his employment be terminated, and
 - (ii) of his entitlements if it is so terminated.
- (c) Any remedy offered under sub-paragraph (a) may be accepted by the officer within the 2 months following the notification thereof, or within such longer period as may be agreed by the authority.
- (d) An allowance in respect of hardship shall be by periodic payments and—
 - (i) the amount of such payments, and
 - (ii) in the event of any change of circumstances, a review of payment of the allowance or the amount thereof,

may be agreed between the officer and the authority; and failing agreement on any such question, the officer may appeal as described in paragraph (3) of article 17, whereupon the question shall be determined as provided in that paragraph.

- (e) No such request as is described in sub-paragraph (b) shall be made after the expiration of 2 months from the determination of the amount of the periodic payments of the allowance.
- (f) Article 13 shall not apply to any officer to whom an allowance is payable under this article.
- (g) If the remedy offered under sub-paragraph (a) is, with the agreement of the Greater London Council, transfer back to the employment of that authority, and that remedy is accepted by the officer and he is so transferred, paragraph (9) of article 7 and articles 8 to 14 shall cease to apply to him. Otherwise, such provisions shall apply to any officer transferred under sub-paragraph (a) as they apply to officers transferred by paragraph (1).

Protection of officers transferred

7.—(1) Every officer transferred by or under article 6 to the employment of a transferee authority shall—

- (a) so long as he continues in that employment by virtue of the transfer, and
- (b) until he is served with a statement in writing referring to this 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 his transfer.

(2) A statement of new terms and conditions of employment shall be served on—

- (a) an officer who has raised a question under article 5(9) or 6(2) (and who is not described in sub-paragraph (b) below), no earlier than the date on which he is notified of the determination of that question and no later than—
 - (i) the expiry of 6 months after that notification, or
 - (ii) the appointed day,whichever is the later;
- (b) an officer to whom paragraph (4) of article 6 applies, no earlier than the date on which he is notified of the remedy referred to in item (i), or of the allowance referred to in item (ii), in sub-paragraph (a) of that paragraph and no later than—
 - (i) the expiry of 6 months after that notification, or
 - (ii) the appointed day,whichever is the later;
- (c) unless he otherwise agrees, an officer to whom article 10 applies (and who is not described in sub-paragraph (a) or (b)), no earlier than the expiry of one month after, and no later than the expiry of 7 months after, the day on which he is transferred as mentioned in that article; and
- (d) any other officer, at any time before the expiry of 6 months after the appointed day.

(3) A statement of new terms and conditions of employment shall state the date upon which it is to become operative, which date shall not be earlier than the expiry of 3 months after—

- (a) the date the statement is served, or
- (b) the appointed day,

whichever is the later.

(4) If after service of a statement of new terms and conditions of employment upon any officer (whether before the appointed day or otherwise) a question is raised under article 5(9) or 6(2), the statement shall cease to have effect and paragraphs (1), (2) 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—

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- (a) so long as the officer is engaged in duties reasonably comparable to those in which he was engaged immediately before his transfer, 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 his transfer.

(6) Where, between the appointed day 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 appointed day is improved, paragraph (5)(a) shall have effect as if the scale as improved had been so enjoyed.

(7) Any question by an officer of any authority—

- (a) whether duties are reasonably comparable within the meaning of paragraph (5), or
 - (b) whether the terms and conditions of his employment are such as are required by this article,
- shall be raised and determined as described in article 17.

(8) A written statement given in accordance with section 1(1) of the Employment Protection (Consolidation) Act 1978 shall not be regarded as a statement of new terms and conditions of employment for the purposes of this article unless the statement so indicates.

(9) A notice to terminate the contract of employment of any officer transferred by article 6, given by reason of the fact that the officer to whom it is given has become redundant in consequence of a transfer of property order, shall, unless such officer otherwise agrees, not come into operation earlier than the expiration of 6 months from the service thereof.

Secondary and further transfers

8.—(1) Any officer transferred by article 6 to the employment of a transferee authority and any other relevant officer may, within the appropriate period, with the agreement of a relevant authority and the officer, be transferred to the employment of that authority.

(2) Article 7 shall apply to an officer transferred to the employment of a relevant authority under this article as it applies to officers transferred by article 6.

(3) In this article—

- (a) “appropriate period” means 2 years following the day upon which land or housing accommodation is transferred—
 - (i) where the officer is transferred under this article from the employment of a transferee authority, to that authority, or
 - (ii) where the officer is not transferred under this article from the employment of a transferee authority, to the relevant authority with whom he makes agreement as mentioned in paragraph (1),

or, if land or housing accommodation is transferred to such an authority by a transfer of property order on two or more days, the first such day;

and

- (b) “relevant authority” means—
 - (i) where the officer is transferred under this article from the employment of a transferee authority, a transferee authority other than that authority or the Greater London Council, or
 - (ii) where the officer is not transferred under this article from the employment of a transferee authority, a transferee authority.

Apprenticeships

9. Any contract of apprenticeship entered into between any person and the Greater London Council shall have effect as a contract entered into between that person and the authority to whose employment he is transferred by article 6 or under article 8, or would have been so transferred if he had been in the employment of the Greater London Council.

Saving for training arrangements

10. Where any officer transferred by article 6 or under article 8 is undergoing training under arrangements which have not been discharged before the appointed day, those arrangements shall continue to apply with the substitution, for the Greater London Council, of the authority to whose employment he has been transferred as aforesaid.

Saving for dispensations

11. Any dispensation from the requirements of any Act or any instrument made under any Act granted to the Greater London Council shall have effect, in relation to an officer transferred by article 6 or under article 8, as if it had been granted to the authority to whose employment he has been transferred as aforesaid.

Saving for extensions of service

12. Any extension of service under regulation L.15 of the Local Government Superannuation Regulations 1974(1) effective on the appointed day in relation to an officer transferred by article 6 or under article 8 shall continue to have effect as if it had been made by the authority to whose employment he has been transferred as aforesaid.

Travelling and removal expenses

13. Any additional travelling expenses, and any removal or incidental expenses, reasonably incurred by any officer in consequence of this order shall be reimbursed by the authority to whose employment he is transferred by article 6 or under article 8 for a period not exceeding 4 years from the date he is so transferred.

Commencing points on scales

14. Where in relation to any officer—

- (a) on the scale of salary or remuneration applicable to him immediately before the appointed day he would have become entitled to an increment on that day, and
- (b) by reason of any appointment effective as from the appointed day made by the authority to whose employment he is transferred by article 6 or under article 8, any other scale of salary or remuneration becomes applicable to him as from that day,

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 day were one continuous employment under one authority.

Appointment of officers before appointed day

15.—(1) Where, before the appointed day, a transferee authority appoint an officer to whom this article applies to hold any office or employment before or as from that day, the appointment shall be on such terms and conditions that—

- (a) so long as he 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 an officer who is appointed as mentioned in paragraph (1)—

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

shall be raised and determined as described in article 17.

(3) This article applies to an officer of the Greater London Council who is employed wholly or mainly in connection with the discharge of that authority's functions as a local authority under the Housing Act 1957.

Protection of housing accommodation

16.—(1) Where, immediately before the appointed day, an officer of the Greater London Council occupies a dwelling (whether as tenant or otherwise) provided by that authority in connection with, or as a term of, his employment and—

- (a) he is transferred by or under article 6, but the dwelling is not transferred by a transfer of property order,
- (b) he is so transferred, but the dwelling is transferred to a different transferee authority by a transfer of property order, or
- (c) he is not so transferred, but the dwelling is transferred by a transfer of property order,

nothing in this order shall prejudice that occupation.

(2) In respect of occupation of a dwelling by an officer as described in paragraph (1)—

- (a) for the purposes of that occupation, the authority in whom the dwelling is vested shall permit the transferee authority by whom he is employed to deal with the dwelling as if it were vested in that authority, and
- (b) that transferee authority shall make any necessary payment to the authority in whom the dwelling is vested to take account of his occupation of the dwelling.

Questions and appeals

17.—(1) Any question which is to be raised and determined as described in this article—

- (a) shall be raised by the officer with the authority as soon as possible, and in the case of a question under article 5(9) (application of a scheme) no later than the expiration of 2 months (or such longer period as may be agreed by the authority) from the supply to him of a copy of the scheme or particulars of his allocation under article 5(4)(b), (5)(b)(ii) or (7)(c)(ii), as the case may be; and
- (b) shall, subject as mentioned in paragraphs (2) and (3), be determined by the authority, “the authority” in this paragraph being—
 - (i) in the case of a question under article 5(9), the Greater London Council,

- (ii) in the case of a question under article 7(7) or 15(2), the transferee authority, and
- (iii) in the case of a question under article 6(2), the authority by whom he is employed at the time he raises the question.

(2) Where an officer has raised a question in accordance with paragraph (1)(a) and he is aggrieved by the determination under paragraph (1)(b) or the question has not been determined within 2 months from the time he raised the question, he may appeal as mentioned in paragraph (3).

(3) An officer described in paragraph (2), or an officer who wishes to appeal in the circumstances specified in article 6(4)(d), may appeal in accordance with the arrangements—

- (a) set out in Circular LHSC 2/79 of the London Housing Staff Commission dated 20th December 1979, or
- (b) which are applicable to the determination of disputes as to employment and terms and conditions thereof between him and his employing authority,

as he may choose, and his appeal shall be determined accordingly.

21st December 1979

Michael R.D. Heseltine
Secretary of State for the Environment

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EXPLANATORY NOTE

This Order makes general provision for the transfer of certain persons employed by the Greater London Council to those authorities to whom, after 31st March 1979, land or housing accommodation is transferred by an order under section 23(3) of the London Government Act 1963, and for the protection of those persons.