

1989 No. 1815

LONDON GOVERNMENT

**The London Government Reorganisation (Pensions etc.)
Order 1989**

<i>Made</i> - - - -	<i>5th October 1989</i>
<i>Laid before Parliament</i>	<i>9th October 1989</i>
<i>Coming into force</i>	<i>30th October 1989</i>

Whereas the London Residuary Body, acting pursuant to section 67(1)(a) of the Local Government Act 1985(a), has submitted proposals to the Secretary of State for the transfer of certain property, functions, rights and liabilities:

And whereas the Secretary of State has decided to give effect to these proposals with modifications:

Now, therefore, the Secretary of State, in exercise of the powers conferred on him by sections 67(3) and 101 of that Act, and of all other powers enabling him in that behalf, hereby makes the following Order:—

Citation, commencement and interpretation

1.—(1) This Order may be cited as the London Government Reorganisation (Pensions etc.) Order and shall come into force on 30th October 1989.

(2) In this Order—

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

“the Authority” means the body established by article 2(1);

“the Residuary Body” means the London Residuary Body; and

“the 1986 Regulations” means the Local Government Superannuation Regulations 1986(b).

Establishment of the London Pensions Fund Authority

2.—(1) On 31st October 1989 there shall be established a body corporate known as the London Pensions Fund Authority to receive the functions, property, rights and liabilities transferred by this Order.

(2) Schedule 1 shall have effect in relation to the Authority.

Transfer of pension and other functions

3. On 1st April 1990 the functions, property, rights and liabilities of the Residuary Body which are specified in Schedule 2 shall become the functions, property, rights and liabilities of the Authority.

(a) 1985 c.51.

(b) S.I. 1986/24, amended by S.I. 1986/380, 1987/293, 1579, 2110, 1988/466, 1989/371, 372, 1462 and 1624.

Power to levy

4.—(1) The Authority may in respect of any financial year beginning on or after 1st April 1990 make one or more levies in order to meet its net expenditure.

(2) Any levy shall be made on one of the following classes of authorities—

- (i) all London borough councils and the Common Council of the City of London; or
- (ii) inner London borough councils and the Common Council; or
- (iii) outer London borough councils.

(3) The amount to be paid by each of the authorities of any class on which a levy is made shall be proportionate to its relevant population as calculated in accordance with section 69 of the Local Government Finance Act 1988(a).

(4) A levy shall be made by serving on each authority of the relevant class a written demand stating the date or dates on or before which a payment in respect of the levy is required to be made and the amount of that payment.

(5) A demand must be served on, or information as to the amount to be demanded must be given to each authority of a class on which a levy is made before 14th February in the financial year preceding that to which the levy relates.

(6) In this article “net expenditure” means all expenditure and costs incurred by the Authority less receipts (if any), but excluding any expenditure or costs payable out of, or receipts which fall to be credited to, the superannuation fund maintained by the Authority under the 1986 Regulations.

Interim borrowing powers

5.—(1) Without prejudice to its powers under Schedule 13 to the Local Government Act 1972(b), the Authority may borrow by way of temporary loan or overdraft from a bank or otherwise any sums which it may require for the purpose of defraying its expenses before 1st April 1990.

(2) The sums borrowed by the Authority under paragraph (1) shall not exceed such amount as the Secretary of State may approve and shall be repaid before 1st April 1991.

Continuity of the exercise of functions

6.—(1) Anything done by or in relation to (or having effect as if done by or in relation to) the Residuary Body in the exercise of or in connection with a matter transferred by article 3 shall, so far as is required for continuing its effect on or after 1st April 1990, have effect as if done by or in relation to the Authority.

(2) Without prejudice to the generality of paragraph (1), that paragraph applies to the making of any application, decision or determination, to the giving of any notice, to the entering into of any agreement or other instrument, and to the bringing of any action or proceeding; but nothing in this Order shall be construed as transferring any contract of employment.

(3) Any pending action or proceeding may be amended in such manner as may be necessary or proper in consequence of this Order.

Other supplementary provision

7.—(1) With effect from 1st April 1990 the 1986 Regulations are amended—

- (a) in regulation C1(2), by substituting for the words “London Residuary Body” the words “London Pensions Fund Authority”;
- (b) in regulation C1(4), by substituting for the words “London Residuary Body” the words “London Pensions Fund Authority”;

(a) 1988 c.41.

(b) 1972 c.70.

- (c) in regulation C1(5), by substituting for the words "London Residuary Body", in the second place in which they occur the words "London Pensions Fund Authority"; and
- (d) in regulation P1(1), by inserting after the words "district council" the words "the London Pensions Fund Authority".
- (2) The 1986 Regulations are amended—
- (a) In regulation C1(1), by substituting for the words "paragraphs (2), (3) and (6)" the words "paragraphs (2), (5) and (6)."; and
- (b) by adding to regulation C1(5) the following:—
- "or (h) within one month and a day after ceasing to be a pensionable employee as is mentioned in sub-paragraph (e), becomes a pensionable employee of a London borough council or of the Common Council, or
- (i) is a pensionable employee of the London Pensions Fund Authority."
- (3) Part I of Schedule 2 to the 1986 Regulations is amended in Column 1 by inserting after a "higher education corporation" the words "London Pensions Fund Authority".
- (4) Without prejudice to the generality of article 6 (continuity of the exercise of functions)—
- (a) any admission agreement within the meaning of the 1986 Regulations in force immediately before 1st April 1990 whereby employees of any body were, or could become, admitted employees participating in the benefits of the superannuation fund maintained under those Regulations by the Residuary Body shall be of full force and effect in favour of, or against the Authority;
- (b) where a person has ceased to contribute to that fund and has not become a contributor to any other superannuation fund maintained under those Regulations, the transferred fund shall on and after 1st April 1990 be deemed to be the fund to which he was last a contributor; and
- (c) on and after 1st April 1990 the Authority is to be treated as being the previous fund authority for the purposes of Part Q of those Regulations in place of the Residuary Body.
- (5) With effect from 1st April 1990 paragraphs 48 and 49 of Schedule 2 to the Pensions (Increase) Act 1971(a) are amended by substituting for the words "London Residuary Body" the words "London Pensions Fund Authority".
- (6) At the end of Part II of Schedule 2 to the Pensions (Increase) Act 1971 (pensions payable out of local funds) there shall be inserted—
- "64C. A pension payable by the London Pensions Fund Authority."
- (7) Any liability of the Residuary Body as the last employing authority under paragraph 1(1) of Schedule 3 to the Pensions (Increase) Act 1971 in respect of any employee whose last day of service occurs before 1st April 1990 shall become the liability of the Authority.
- (8) Section 61(5) of the 1985 Act shall continue to have effect, so that no liability to reimburse the Authority in respect of any payment made by it shall attach to the Secretary of State, the Arts Council of Great Britain or the Historic Buildings and Monuments Commission for England where no liability to reimburse the Residuary Body would have attached to them if this Order had not been made.
- (9) Part 1 of Schedule 1 to the Local Government (Compensation for Premature Retirement) Regulations 1982(b) is amended by inserting after paragraph (1) the following:—
- "(m) the London Pensions Fund Authority."

5th October 1989

C. F. Patten
Secretary of State for the Environment

(a) S.I. 1971 c.56. Paragraphs 48 and 49 of Schedule 2 were amended by the Local Government Act 1985, section 61.
(b) S.I. 1982/1009, amended by S.I. 1984/740, 1986/151, 1988/466 and 1989/372.

LONDON PENSIONS FUND AUTHORITY

1.—(1) The Authority shall consist of not less than 7 and not more than 11 members appointed by the Secretary of State, and at least half of the members excluding the chairman shall be appointed following consultations with such representatives of local government in London as appear to the Secretary of State to be appropriate.

(2) The Secretary of State shall appoint a chairman and may appoint a deputy chairman of the Authority.

2. The following provisions of Schedule 13 to the 1985 Act shall have effect as if references to a residuary body included references to the authority—

- (a) Paragraph 1 (status)
- (b) Paragraph 2 (tenure of office of members)
- (c) Paragraph 3 (remuneration etc. of members)
- (d) Paragraph 4 (House of Commons disqualification)
- (e) Paragraph 5 (proceedings)
- (f) Paragraph 10 (reports and information)
- (g) Paragraphs 12, 13(g), 13(h), 13(i), 14(a) and (b) and 16 (application of local government provisions).

3.—(1) The application of the Authority's seal shall be authenticated by the signature of the Chairman or of a member or officer of the Authority authorised either generally or specially by the Authority for that purpose.

(2) Any document purporting to be a document duly executed under the seal of the Authority shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed.

4. Without prejudice to any powers of the Authority to acquire or to dispose of land as an investment of the superannuation fund, the Authority may—

- (a) acquire by agreement any land required by it for carrying out its functions; or
- (b) subject to any directions given to it by the Secretary of State, dispose of any land held by it in such manner as it wishes.

5. Subject as mentioned below, the following provisions of the Local Government Act 1972 shall have effect as if references to a joint authority included references to the Authority—

- (a) section 101(1)(a) (arrangements for discharge of functions);
- (b) section 151 (financial administration);
- (c) section 228(2) and (3) (inspection of documents);
- (d) section 234 (authentication of documents); and
- (e) paragraph 22(1) and (3) of Schedule 13 (borrowing and funds)(a), but not insofar as it applies to paragraphs 1(a), 2(1)(b) to (e), 5, 6, 8, 9, 12 to 15 and 18 of that Schedule.

6. The following provisions shall have effect as if references to a joint authority included references to the Authority—

- (a) section 1(4) of the Local Authorities (Goods and Services) Act 1970(b);
- (b) section 25(1)(c) of the Local Government Act 1974(c);
- (c) regulation 1(3) of the Local Authority (Mortgages) Regulations 1974(d);
- (d) section 71(1)(j) of the Local Government, Planning and Land Act 1980(e); and
- (e) sections 6(2) and 9(1)(a) of the Local Government Act 1986(f).

(a) Paragraph 22(1) was amended, and 22(3) inserted, by the Local Government Act 1985, section 70.

(b) 1970 c.39.

(c) 1974 c.7.

(d) S.I. 1974/518, amended by S.I. 1986/282.

(e) 1980 c.65.

(f) 1986 c.10.

7.—(1) Section 78(1), (2) and (3) of the 1985 Act shall have effect as if references to a residuary body included references to the Authority.

(2) The Secretary of State may give directions to the Authority requiring it—

- (a) to keep accounts in respect of such matters and records relating to them as may be specified in the direction;
- (b) to comply with such methods and principles as may be so specified with respect to any accounts or records kept by them;
- (c) to make such provision as he may specify for the exercise of any rights of public inspection; and
- (d) to take such steps as he may specify to inform the public of any such rights as are referred to in sub-paragraph (c);

and it shall be the duty of the Authority to comply with any such directions.

(3) Subject to sub-paragraph (4) below, section 79 of the 1985 Act shall have effect as if references to a residuary body included references to the Authority.

(4) Notwithstanding sub-section (2) of section 79 of the 1985 Act, section 22(2) of the Local Government Finance Act 1982(a) (power of Secretary of State to direct extraordinary audit) shall apply in relation to the Authority and its accounts.

8. The Public Bodies (Admission to Meetings) Act 1960(b) shall not apply to the Authority.

SCHEDULE 2

Article 3

FUNCTIONS, PROPERTY, RIGHTS AND LIABILITIES TRANSFERRED

1. Subject to paragraph 4, the functions, property, rights and liabilities which are transferred by article 3 are—

- (a) the functions of the Residuary Body as an administering authority under the 1986 Regulations, together with the superannuation fund maintained by the Residuary Body and all property, rights and liabilities in respect of it;
- (b) the rights and liabilities of the Residuary Body in respect of benefits payable by it under Part L of those Regulations;
- (c) the functions, property, rights and liabilities of the Residuary Body in respect of pensions payable by it otherwise than under those Regulations;
- (d) without prejudice to the foregoing, the functions, rights and liabilities which are vested in or fall to be discharged by the Residuary Body under or by virtue of section 61 of the 1985 Act (payment of pensions increases); and
- (e) any monies or other property held or used by the Residuary Body exclusively for or in connection with the matters referred to in sub-paragraph (d) above.

2. For the purposes of paragraph (1) "property" includes land held as an investment of the superannuation fund and land acquired by the Residuary Body after 1st September 1989 exclusively for the purposes of carrying out its functions in relation to the superannuation fund, but excludes any other land.

3. In paragraph 1(c), references to pensions include references to allowances, grants or other benefits in respect of past service, death, injury or disease (whether of the pensioner or another person) but do not include—

- (a) compensation under regulations made under section 24 of the Superannuation Act 1972(c);
- (b) any other compensation as is mentioned in section 8(1)(b) of the Pensions (Increase) Act 1971; or
- (c) any compensation payable by the Residuary Body under the London Government Reorganisation (Staff Compensation) Order 1988(d).

(a) 1982 c.32.

(b) 1960 c.67.

(c) 1972 c.11.

(d) S.I. 1988/1542.

4.—(1) The rights and liabilities of the Residuary Body in respect of benefits payable by it under Part L of the 1986 Regulations arising in relation to an employment with the Residuary Body shall not transfer under article 3.

(2) There shall not transfer under article 3 any matter mentioned in paragraph 1(d) (payment of pension increases) in cases where the payment of the relevant pension remains the function of the Residuary Body.

(3) There shall not transfer under article 3 any obligation relating to the Residuary Body's members arising under paragraph 3 of Schedule 13 to the 1985 Act.

(4) There shall not transfer under article 3 any matter relating to the making of payments under a scheme made pursuant to section 59(3) of the 1985 Act.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order gives effect, with modifications, to proposals of the London Residuary Body for the transfer of the superannuation fund maintained by it under the Local Government Superannuation Regulations 1986 (S.I. 1986/24) ("the 1986 Regulations") and of associated matters to a new body corporate to be called the London Pensions Fund Authority ("the Authority"). The main modifications are:—

- (a) certain compensation functions are not transferred;
- (b) different provision is made about consultation by the Secretary of State;
- (c) the provisions of Schedule 12 to the Local Government Act 1972 (c.70) (meetings and proceedings) are not applied to the Authority; and;
- (d) a levying power (as explained below) is provided instead of a right to recover expenses.

Article 2 provides for the establishment of the Authority on 31st October 1989 to receive the functions and property transferred by the Order. Schedule 1 contains provisions as to the constitution and powers of the Authority and provides for the application to it of certain statutory provisions.

Article 3 provides for the transfer to the Authority on 1st April 1990 of the functions, property, rights and liabilities specified in Schedule 2, including, principally, the superannuation fund maintained by the London Residuary Body under the 1986 Regulations.

Article 4 empowers the Authority to make levies on London Borough Councils and the Common Council of the City of London in order to enable it to meet its net expenditure in respect of financial years beginning on or after 1st April 1990.

Article 5 empowers the Authority to borrow by way of temporary loan or overdraft in order to meet its expenditure before 1st April 1990.

Article 6 makes provision for the continuity of the exercise of functions and article 7 amends the 1986 Regulations and certain other statutory provisions to take account of the establishment of the Authority.

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