

1989 No. 304

LONDON GOVERNMENT

**The London Government Reorganisation (Hampstead
Heath) Order 1989**

<i>Made</i> - - - -	<i>2nd March 1989</i>
<i>Laid before Parliament</i>	<i>9th March 1989</i>
<i>Coming into force</i>	<i>30th March 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 of its functions, property, rights and liabilities, and he has decided to give effect to those proposals with modifications:

Now, therefore, the Secretary of State for the Environment, in exercise of the powers conferred on him by sections 67(3) and 100(2) to (4) of that Act, and of all other powers enabling him in that behalf, hereby makes the following Order:-

PART I

Citation and commencement

1. This Order may be cited as the London Government Reorganisation (Hampstead Heath) Order 1989 and shall come into force on 30th March 1989.

Interpretation

2. In this Order -

“the 1972 Act” means the Local Government Act 1972(b);

“the 1986 Order” means the Local Government Reorganisation (Property, etc.) Order 1986(c);

“the City” means the Common Council of the City of London and, in relation to the vesting of property, means the Mayor and Commonalty and Citizens of the City of London acting by the Common Council; and for the purposes of this definition references to the Common Council are references to that body in a capacity other than as local authority, police authority or port health authority;

“Council member” means a member of the Common Council of the City of London;

(a) 1985 c.51. (b) 1972 c.70. (c) S.I. 1986/148, to which there is an amendment not relevant to this Order.

“the Heath lands” means –

- (a) the land which vested in the Residuary Body by virtue of article 13(3) of the 1986 Order; and
- (b) any land acquired by that Body after 1st April 1986 and held by that Body immediately before the transfer date for the purposes of the better management of the land mentioned in sub-paragraph (a) or by way of an addition to that land;

“the Kenwood lands” means such land adjacent to Kenwood House as is specified in article 13(1) of the 1986 Order;

“the Residuary Body” means the London Residuary Body;

“the transfer date” means 31st March 1989.

PART II

Transfer of the Heath lands

3. On the transfer date there shall vest in the City all interests of the Residuary Body in the Heath lands.

Transfer of rights and liabilities

4. On the transfer date there shall vest in the City all rights and liabilities of the Residuary Body –

- (a) relating to or connected with the Heath lands; or
- (b) attributable to any notice served by that Body on the council of the London Borough of Camden pursuant to article 21(2) of the 1986 Order in connection with that Body’s functions in respect of the Heath lands.

Functions of the City

5.—(1) Subject to paragraph (2), the functions that were exercisable by the Greater London Council immediately before 1st April 1986 in respect of, or in connection with, such part of the Heath lands as was vested by the 1986 Order, shall be exercisable by the City on and after the transfer date in respect of, or in connection with, all the Heath lands.

(2) The City shall not exercise any power to dispose of land as respects any part of the Heath lands.

(3) Without prejudice to the generality of paragraph (1), the functions exercisable by the City by virtue of that paragraph include functions under –

- (a) the Hampstead Heath Act 1871(a);
- (b) the Hampstead Heath Enlargement Acts 1886 and 1888(b);
- (c) section 28 of the London County Council (General Powers) Act 1899(c);
- (d) sections 27 and 28 of the London County Council (General Powers) Act 1905(d);
- (e) the Open Spaces Act 1906(e);
- (f) the Greater London Parks and Open Spaces Order 1967(f);
- (g) section 120 of the 1972 Act (acquisition of land by agreement);
- (h) section 145 of the 1972 Act (provision of entertainments); and
- (i) section 19 of the Local Government (Miscellaneous Provisions) Act 1976(g) (recreational facilities).

(a) 1871 c. lxxvii (34 and 35 Vict.); repealed in part by the Local Law (Greater London Council and Inner London Boroughs) Order 1965 (S.I. 1965/540), article 5. (b) 1886 c. xli and 1888, c. cli; both repealed in part by S.I. 1965/540, article 5. (c) 1899 c. ccxxxvii; section 28(1) was repealed by article 5 of S.I. 1965/540. References to the London County Council were replaced by references to the Greater London Council by virtue of article 4 of S.I. 1965/540. (d) 1905 c. ccvi; references in section 27 to the London County Council were replaced by references to the Greater London Council by virtue of article 4 of S.I. 1965/540. (e) 1906 c.25; applied (with the exception of section 14) to the Greater London Council by section 58(1) of the London Government Act 1963 (c.33). (f) See 1967 c.xxix. (g) 1976 c.57.

(4) For the purpose of giving effect to paragraph (1)–

- (a) references in the provisions mentioned in paragraph (3)(a) to (f) to any authority shall, where appropriate, be deemed to include references to the City;
- (b) without prejudice to section 32 of the Local Government (Miscellaneous Provisions) Act 1976 (power of local authorities to execute works outside their areas), the Heath lands shall be deemed to be land within the City of London for the purposes of the provisions mentioned in paragraph (3)(a) to (d); and
- (c) the City shall be treated as a principal council for the purposes of section 120 of the 1972 Act.

(5) Any function exercisable by the City otherwise than by virtue of this Order shall not be exercised in respect of, or in connection with, the Heath lands.

PART III

Financial arrangements

6.—(1) Immediately before the transfer date the Residuary Body shall set aside from the reserved amount of their direct capital receipts the sum of £19.067 millions.

(2) On the transfer date, the Residuary Body shall pay that sum to the City; and the City shall credit –

- (a) the sum of £15 millions to the Hampstead Heath Trust Fund (“the Trust Fund”) which, subject to article 7, shall be applied for defraying expenditure on the management and maintenance of the Heath lands; and
- (b) the sum of £4.067 millions to the Hampstead Heath Works Fund which shall be applied for defraying expenditure on work of any of the descriptions specified in Schedule 1 on, or in connection with, the Heath lands.

(3) For the purposes of this article –

- (a) “direct capital receipts” has the same meaning as in article 2(1) of the Local Government Reorganisation (Capital Money) (Greater London) Order 1988(a); and
- (b) “the reserved amount” means the sum of £70 millions referred to at the end of the definition of “R” in paragraph 2 of Schedule 3 to that Order.

Further restrictions on use of the Trust Fund

7.—(1) In each of the financial years ending 31st March 1990, 31st March 1991 and 31st March 1992 the City may apply the money in the Trust Fund for defraying no more than $\frac{4}{9}$ ths of its expenditure in that year on the management and maintenance of the Heath lands.

(2) In each financial year commencing with the financial year beginning 1st April 1992, the City may defray part of its expenditure on the management and maintenance of the Heath lands by applying such amount of the money in the Trust Fund as does not exceed the maximum contribution for that year.

(3) For the purposes of paragraph (2), the maximum contribution is the amount determined in accordance with Schedule 2.

(a) S.I. 1988/359, amended by S.I. 1988/2202.

PART IV

The Hampstead Heath Management Committee

8.—(1) The City shall no later than one month after this Order comes into force appoint a committee to be known as the Hampstead Heath Management Committee (“the Management Committee”) for the purposes of giving advice on, and implementing, the City’s policies and programmes of work in relation to the Heath lands; and in fulfilling those purposes, the Management Committee shall have regard to any representations made to it by the Consultative Committee appointed in accordance with article 9.

(2) The Management Committee shall consist of not less than 18 members appointed by the City.

(3) At least six of the members of the Management Committee shall be appointed from among persons who are neither Council members nor employees of the City; and of these –

- (a) one shall be appointed after consultation with the Council of the London Borough of Barnet;
- (b) one shall be appointed after consultation with the Council of the London Borough of Camden;
- (c) one shall be appointed after consultation with the owners for the time being of the Kenwood lands; and
- (d) three shall be appointed after consultation with such bodies appearing to the City to represent local, ecological, environmental or sporting interests as it considers appropriate.

(4) Schedule 3 to this Order shall have effect for the purposes of supplementing this article.

The Hampstead Heath Consultative Committee

9.—(1) The City shall within three months of the coming into force of this Order appoint a committee to be known as the Hampstead Heath Consultative Committee (“the Consultative Committee”) for the purposes of making representations to the Management Committee about any matter which, in the opinion of the Consultative Committee, affects or is likely to affect the Heath lands.

(2) Schedule 4 to this Order shall have effect for the purposes of supplementing this article.

PART V

Consequential provision

10. Articles 5(2) and (5) shall apply in relation to land acquired by the City pursuant to article 5(1) as if that land were part of the Heath lands; and references in articles 6 to 9 to the Heath lands shall be taken to include references to land so acquired.

Continuity of the exercise of functions

11.—(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 function which by virtue of this Order becomes the function of the City shall, so far as is required for continuing its effect after the transfer date, have effect as if done by or in relation to the City.

(2) Without prejudice to the generality of paragraph (1), that paragraph applies to the making of any application, byelaw, 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 appropriate in consequence of this Order.

2nd March 1989

Nicholas Ridley
Secretary of State for the Environment

SCHEDULE 1

Article 6(2)(b)

DESCRIPTIONS OF WORK

- 1.—(1) The Hampstead Heath Works Fund may be applied to defray expenditure on –
- (a) the enhancement or replacement of buildings and other structures used for, or in connection with, the provision of information to the public, recreation or refreshment, the accommodation of staff, and the storage of movable or immovable plant, machinery and apparatus and vehicles and vessels;
 - (b) the enhancement or replacement of car parks, monuments and other ornamental features (not being structures), playing fields and other recreational facilities; and
 - (c) the enhancement or replacement of any drainage, heating, lighting and ventilating equipment which is ancillary or incidental to any asset or facility referred to in sub-paragraph (a) or (b) above.
- (2) For the purposes of sub-paragraph (1), “enhancement” means the carrying out of works which are intended –
- (a) to lengthen substantially the useful life of any asset; or
 - (b) to increase substantially the extent to which the asset or facility can or will be used for the purposes of or in connection with the functions of the City under this Order.
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SCHEDULE 2

Article 7

DETERMINATION OF MAXIMUM CONTRIBUTION

- 1.—(1) In this Schedule –
- “annual adjustment” means the change, expressed as a percentage, in the value of the average earnings index between April of the financial year preceding the relevant year and April of the relevant year;
- “relevant period” means any period of three consecutive years commencing with the period beginning on 1st April 1992; and
- “relevant year” means the financial year for which the maximum contribution falls to be determined.
- (2) For the purposes of the definition of “annual adjustment”, the average earnings index means the general index of average earnings (for all employees: whole economy: seasonally adjusted) published by the Department of Employment; and if that index is not published for a month for which it is relevant for the purposes of this Schedule, that definition shall be taken to refer to any substituted index or index figures published by that Department.
2. For the purposes of article 7(2) the maximum contribution is –
- (a) if the relevant year is the first year of a relevant period, an amount equal to the aggregate of –
 - (i) the amount of the income accrued to the Trust Fund in the preceding financial year; and
 - (ii) the product of that amount and the annual adjustment;

- (b) if the relevant year is the second year of a relevant period, an amount equal to the aggregate of –
 - (i) the amount of the maximum contribution for the first year of that period; and
 - (ii) the product of that amount and the annual adjustment;
 - (c) if the relevant year is the third year of a relevant period, an amount equal to the aggregate of –
 - (i) the amount of the maximum contribution for the second year of that period; and
 - (ii) the product of that amount and the annual adjustment.
-

SCHEDULE 3

Article 8

THE MANAGEMENT COMMITTEE

1.—(1) Every member of the Management Committee shall be appointed for such term, not exceeding four years, as the City may specify.

(2) Without prejudice to paragraph 2 below, every member of the Committee shall hold and vacate office in accordance with the terms of his appointment.

(3) Any member of the Committee whose term of office has expired shall, subject to the provisions of this Schedule, be eligible for re-appointment.

(4) The time at which the appointment of any person as a member of the Committee takes effect shall be determined by the City.

Replacement of members

2.—(1) The appointment of a person to the Committee from among Council members shall end if he ceases to be a member of the Council.

(2) The appointment of any other person to the Committee shall end if he becomes a member or an employee of the Council.

(3) The appointment of any person to the Committee may be ended by resignation by notice in writing given to the Town Clerk.

(4) The Town Clerk shall, as soon as practicable, publish notice –

(a) of any appointment to the Committee;

(b) of the ending of any such appointment;

and any such notice shall give the name of the person concerned.

Attendance at meetings

3. Section 85 of the 1972 Act (vacation of office by failure to attend meetings) shall apply in relation to attendance at meetings of the Committee as it applies in relation to attendance at meetings of a local authority, and as if the City were a local authority for the purposes of that section.

Proceedings of Committee

4.—(1) No business shall be transacted at any meeting of the Committee unless at least seven of its members are present, of whom at least one is appointed from among persons who are neither Council members nor employees of the City.

(2) The City may apply to the proceedings and place of meeting of the Committee any standing orders to which the proceedings and place of meeting of other committees of the City are subject but, subject to any such application and the provisions of this Schedule, Part VI of Schedule 12 to the 1972 Act (except paragraph 45) shall apply to meetings and proceedings of the Committee as if the Committee were a committee of a local authority.

(3) The Committee shall elect a chairman from among those of its members who are Council members and may, if it thinks fit, appoint one of its members to be deputy chairman.

(4) The chairman shall, unless he resigns or becomes disqualified, continue in office until his successor becomes entitled to act as chairman.

THE CONSULTATIVE COMMITTEE

1.—(1) The Consultative Committee shall consist of the chairman of the Management Committee and not less than 19 other members of whom one shall be appointed from among the members of the Management Committee.

(2) The remaining members shall be appointed from among persons who are neither Council members nor employees of the City; and of these –

- (a) eight shall be appointed after consultation with the Hampstead Conservation Area Advisory Committee, the Hampstead Garden Suburb Residents' Association, the Heath and Old Hampstead Society, the Highgate Conservation Area Advisory Committee, the Highgate Society, the Joint Amenity Groups of Hampstead, the South End Green Association, the Vale of Health Society, and such other bodies appearing to the City to represent local interests as it considers appropriate;
- (b) three shall be appointed after consultation with the London Council for Sport and Recreation and such other bodies appearing to the City to represent sporting interests as it considers appropriate;
- (c) five shall be appointed after consultation with the Flora and Fauna Preservation Society, the London Wildlife Trust, the Marylebone Birdwatching Society, the Open Spaces Society, the Ramblers' Association, and such other bodies appearing to the City to represent ecological interests as it considers appropriate;
- (d) one shall be appointed after consultation with such bodies appearing to the City to represent the interests of disabled persons as it considers appropriate; and
- (e) one shall be appointed after consultation with the Friends of Kenwood and such other bodies appearing to the City to be concerned with the management of the Kenwood lands as it considers appropriate.

2. The chairman of the Management Committee shall be the chairman of the Consultative Committee.

3. The Consultative Committee shall meet not less than twice in each year.

4. Paragraph 4(1), (2) and (4) of Schedule 1 (proceedings of committee) shall apply to the Consultative Committee as it applies to the Management Committee.

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 Hampstead Heath and associated functions, rights and liabilities to the Corporation of the City of London ("the City"). The principal modifications are –

(a) the addition of certain land acquired by the Residuary Body to the land initially proposed by them for transfer to the City;

(b) the omission from the functions to be conferred on the City of the power conferred by section 123 of the Local Government Act 1972 to dispose of land;

(c) the extension of the financial arrangements so as to permit the City to have recourse to any money for the time being in the Hampstead Heath Trust Fund, rather than only the income accruing to that Fund; and

(d) the inclusion of provisions relating to the Consultative Committee.

Article 2 defines terms used in the Order. In particular "the Heath lands" is defined as the area which vested in the Residuary Body on 1st April 1986 and certain land acquired by that Body between that date and 31st March 1989.

Article 3 transfers the Heath lands to the City on 31st March 1989, and article 4 provides for the transfer of associated rights and liabilities.

Article 5 confers on the City the functions that were exercisable by the Greater London Council immediately before 1st April 1986 in respect of such part of the Heath lands as was then vested in it.

Article 6 requires the Residuary Body to pay the sum of £19,067,000 to the City on 31st March 1989. The City are to credit £15 millions to the Hampstead Heath Trust Fund. Subject to the restrictions specified in article 7, to which Schedule 2 is relevant, the City may draw on that sum for defraying their expenditure on the management and maintenance of the Heath lands. The balance of £4,067,000 is to be credited to the Hampstead Heath Works Fund and may be used to defray the City's expenditure on work within the descriptions specified in Schedule 1 to the Order.

Articles 8 and 9 require the City to appoint a Management Committee and a Consultative Committee for the purposes of assisting the City in implementing their policies and programmes of work in relation to the Heath lands. Details relating to these Committees are contained in Schedules 3 and 4.

Article 10 makes provision for the application of certain parts of the Order to be extended to land which may be acquired by the City in connection with the Heath lands.

Article 11 provides for continuity in the exercise of functions.

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