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STATUTORY INSTRUMENTS

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**1989 No. 814**

**The South Yorkshire Residuary Body (Winding Up) Order 1989**

**PART II**

**TRANSFER OF PROPERTY, FUNCTIONS, RIGHTS AND LIABILITIES**

**Transfer of property, etc.**

2.—(1) on the transfer date—

- (a) any immovable property of the Residuary Body which is the subject of an agreement for its disposal or option for its purchase, and any interest of the Residuary Body in any mortgage, shall vest in Rotherham; and
- (b) all other property of the Residuary Body (whether movable or immovable) shall vest in the local council.

(2) All rights and liabilities of the Residuary Body acquired or incurred in connection with, and all records relating exclusively to, property transferred by paragraph (1) shall vest in the council to which it is so transferred.

(3) In each financial year commencing with the financial year beginning 1st April 1989 Rotherham shall pay to each of the other local councils the appropriate proportion of an amount equal to Rotherham's net revenue receipts from any property or interest vested by paragraph (1)(a), and net capital receipts from the repayment of principal in respect of any interest so vested or the disposal of any such interest or of any property so vested.

(4) In the preceding paragraph, "net revenue receipts" means revenue receipts in the year in question after deducting the aggregate amount of expenditure incurred by Rotherham in that year in connection with property vested by paragraph (1)(a); and "net capital receipts" means capital receipts in the year in question after deducting any amount by which net revenue receipts are a negative amount.

(5) The balance of the net capital and revenue receipts shall be retained by Rotherham.

**Transfer of monies**

3.—(1) Immediately before the transfer date the Residuary Body shall set aside from their revenue balances the sum of £1 million ("the special fund"), to meet their expenditure between the transfer date and 31st July 1989.

(2) On the transfer date all monies held by the Residuary Body and all sums standing to the credit of that Body on any account (other than the special fund) shall vest in Rotherham.

(3) On or before 31st March 1990 Rotherham shall pay to each of the other local councils the appropriate capital and appropriate revenue sums as defined in paragraph (4).

(4) In paragraph (3)—

“appropriate capital sum” means a sum equal to the appropriate proportion of the aggregate amount of capital money held by the Residuary Body or standing to its credit on any account immediately before the transfer date;

“appropriate revenue sum” means a sum equal to the appropriate proportion of the aggregate of all other sums which immediately before the transfer date are held by, or stand to the credit of, the Residuary Body on any account other than the special fund.

(5) The amounts reflecting the difference between the amounts vested by paragraph (2) and the amounts which fall to be paid to other local councils by paragraph (3) shall be retained by Rotherham as their share of the vested amounts.

(6) In this article “capital money” means monies described in article 2(2)(a) of the Local Government Reorganisation (Capital Money) (Metropolitan Counties) Order 1986(1).

### **Compensation and superannuation matters**

4.—(1) All the functions of the Residuary Body in relation to any contract of employment with the abolished council or a contract of employment with the Residuary Body terminating on or before the transfer date and all rights and liabilities of that Body which arise from any such contract shall on the transfer date become functions of, or vest in, the Pensions Authority.

(2) Without prejudice to the generality of paragraph (1) the functions of the Residuary Body conferred by regulation 3(1) of the Local Government Superannuation (Miscellaneous Provisions) Regulations 1986(2) shall vest in the Pensions Authority.

(3) All the functions of the Residuary Body under the Pensions (Increase) Act 1971(3) and any matter relating to the making of payments under the Local Government Reorganisation (Reduction of Redundancy Payment Cases) Scheme 1986(4) shall on the transfer date become functions of, or transfer to, the Pensions Authority.

(4) Regulation 3(3) of the Regulations mentioned in paragraph (2) above shall apply to the exercise by the Pensions Authority of any discretionary function transferred by paragraph (1) as if references to the appropriate residuary body were references to that Authority.

(5) Article 6(3) of the Local Government Reorganisation (Pensions etc.) (South Yorkshire) Order 1987(5) (“the Pensions Order”) shall have effect as if, after the words “this Order”, there were inserted the words “or the South Yorkshire Residuary Body (Winding Up) Order 1989”.

(6) Article 4 of the Pensions Order applies in relation to the net expenditure of the Pensions Authority attributable to the transfer by this article and articles 6(1)(a) and 10(2)(a) of functions, rights and liabilities as it applies to the Authority’s other net expenditure.

### **Block Grant**

5.—(1) Any payment which by virtue of any provision of Part VI of the 1980 Act would but for this Order have fallen, by virtue of section 81 of the 1985 Act, to be made by or to the Residuary Body shall be made by or to the local councils in the appropriate proportions.

(2) For the purposes of paragraph (1)–

(a) “the appropriate proportions” shall be construed in accordance with article 1(3)(a); and

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(1) S.I.1986/2063.

(2) S.I. 1986/380.

(3) 1971 c. 56.

(4) Made under section 59(3) of the Local Government Act 1985.

(5) S.I. 1987/2110.

- (b) the population of an area shall be taken to be the number estimated by the Registrar General and certified by him to the Secretary of State by reference to 30 June 1983 in the case of any payment attributable to the financial year ended 31st March 1986.
- (3) Any information, notice or request under section 65, 66 or 67 of the 1980 Act<sup>(6)</sup> which but for this article would have fallen to be given or made by or to the Residuary Body shall be given or made by or to Rotherham.

#### **Transfer of rights and liabilities**

- 6.—(1) Subject to the preceding provisions of this Order, on the transfer date—
  - (a) all rights and liabilities of the Residuary Body relating to any function which by virtue of this Order becomes a function of the Pensions Authority shall vest in that Authority; and
  - (b) all remaining rights and liabilities of the Residuary Body shall vest in Rotherham; to be held for the benefit of, or discharged on behalf of, all the local councils.
- (2) Liabilities in respect of money borrowed by the Residuary Body (both as respects principal and interest) transferred by paragraph (1)(b) shall be charged on the revenues of Rotherham.

#### **Consequential financial provisions**

- 7.—(1) Any net capital receipts paid to a local council pursuant to article 2(3) and the balance of net capital receipts retained by Rotherham pursuant to article 2(5) shall be treated for the purposes of Part VIII (capital expenditure) of the 1980 Act as a capital receipt of the council.
- (2) Any sum paid to a local council as an appropriate capital sum under article 3(3) or retained by Rotherham pursuant to article 3(5) and reflecting capital monies shall be treated for the purposes of the said Part VIII as a capital receipt of the council.
- (3) Regulations under section 72(3)(d) and 75 of the 1980 Act shall apply to amounts to be treated by virtue of this article as capital receipts of a local council for the purposes of Part VIII as they apply to other receipts of the council.
- (4) Sums received by Rotherham in respect of the disposal of assets vested in that council by article 2(1)(a) of this Order shall not be capital receipts for the purposes of Part VIII of the 1980 Act.

8. Any net capital receipts or appropriate capital sums paid to a local council pursuant to article 2(3) or 3(3), and the balance of net capital receipts and the appropriate capital sum retained by Rotherham pursuant to articles 2(5) and 3(5), shall be applied for any purpose for which capital money received by a local council on the disposal of land under Part VII of the Local Government Act 1972<sup>(7)</sup> may properly be applied.

#### **Consequential administrative arrangements**

- 9.—(1) On or before 31st October in any financial year beginning with the financial year commencing 1st April 1989, Rotherham shall notify every other local council of its estimate of the amount to be paid to that council in the current financial year by way of net capital receipts under article 2(3) or an appropriate capital sum under article 3(3) and of the classes of disposals and repayments to which that amount relates.
- (2) On making any payment of net capital receipts in pursuance of article 2(3) or of an appropriate capital sum in pursuance of article 3(3) Rotherham shall notify the council of the classes of disposals and repayments to which the payment relates.

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<sup>(6)</sup> Section 65 was substituted by paragraph 4 of Schedule 4 to the Local Government Finance Act 1987 (c. 6).

<sup>(7)</sup> 1972 c. 70.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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(3) For the purposes of paragraphs (1) and (2), disposals and repayments shall be classified in accordance with Schedule 1 to the Local Government (Prescribed Expenditure) (Consolidation and Amendment) Regulations 1987<sup>(8)</sup>.

(4) When Rotherham send a notification under paragraph (1) or (2) to another council they shall send a copy to the Secretary of State and in the case of a notification under paragraph (2) advise the Secretary of State of the amount paid to that council.

(5) Rotherham shall—

- (a) before the relevant date mentioned in paragraph (1) provide the Secretary of State with an estimate of the amount they anticipate they will retain in the current financial year by way of capital monies and of the classes of disposals and repayments to which that amount relates; and
- (b) notify the Secretary of State when they retain any amount following a distribution of capital monies under paragraph (2) of the amount retained and the classes of disposals and repayments to which that amount relates.

(6) The Local Government Reorganisation (Capital Money) (Metropolitan Counties) Order 1986 shall cease to have effect in relation to the county on the transfer date.

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<sup>(8)</sup> S.I. 1987/2186, to which there are amendments not relevant to this Order.