

1989 No. 814

LOCAL GOVERNMENT, ENGLAND AND WALES

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

<i>Made</i> - - - -	<i>9th May 1989</i>
<i>Laid before Parliament</i>	<i>17th May 1989</i>
<i>Coming into force</i> -	<i>29th June 1989</i>

Whereas the South Yorkshire Residuary Body, acting pursuant to section 67(1)(b) of the Local Government Act 1985(a), has submitted a scheme to the Secretary of State for its winding up, and the disposal of its remaining functions, property, rights and liabilities:

And whereas the Secretary of State has decided to give effect to those proposals:

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

PART I

Citation, commencement and interpretation

1.—(1) This Order may be cited as the South Yorkshire Residuary Body (Winding Up) Order 1989 and shall come into force on 29th June 1989.

(2) In this Order—

“the 1980 Act” means the Local Government, Planning and Land Act 1980(b);

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

“The abolished council” means the former South Yorkshire County Council;

“the county” means the county of South Yorkshire;

“expenditure” in relation to Rotherham includes administrative expenses properly incurred by them;

“the local council” means the council of a district in the county and in relation to property means the council of the district in which the property is situated;

“the Pensions Authority” means the South Yorkshire Pensions Authority;

“property”, except in article 10, does not include cash or the balance of any fund or account;

“the Residuary Body” means the South Yorkshire Residuary Body;

“Rotherham” means the council of the metropolitan borough of Rotherham; and

(a) 1985 c.51.
(b) 1980 c.65.

“the transfer date” means 30th June 1989.

(3) For the purpose of any provision of this Order, other than article 5, which requires the payment or recovery of sums in the appropriate proportions—

- (a) the appropriate proportion in relation to any council is the proportion equal to the proportion which the population of the area of that council bears to the population of the county; and
- (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 the 30th June which falls 21 months before the beginning of the financial year in which the payment falls to be made or the sum recovered, as the case may be.

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(a).

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(b) shall vest in the Pensions Authority.

(3) All the functions of the Residuary Body under the Pensions (Increase) Act 1971(c) and any matter relating to the making of payments under the Local Government Reorganisation (Reduction of Redundancy Payment Cases) Scheme 1986(d) 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(e) ("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
- (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(f)

(a) S.I. 1986/2063.

(b) S.I. 1986/380.

(c) 1971 c.56.

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

(e) S.I. 1987/2110.

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

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(a) 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.

(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(b).

(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.

(a) 1972 c.70.

(b) S.I. 1987/2186, to which there are amendments not relevant to this Order.

- (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.

PART III

WINDING UP

Winding up

10.—(1) In relation to the year beginning 1st April 1989, paragraph 10(1) of Schedule 13 to the 1985 Act shall have effect as if it referred to a report for a period between that date and 31st July 1989.

- (2) On 31st July 1989 the Residuary Body shall be wound up and on that date—
- (a) any functions, rights and liabilities in relation to any contract of employment with the Residuary Body shall become functions, rights and liabilities of the Pensions Authority; and
 - (b) any remaining functions, property, rights and liabilities shall vest in Rotherham and be held by that council for the benefit of all the local councils or discharged by that council on their behalf, as the case may be.

Accounts

11. Any function under—

- (a) section 78 or 79 of the 1985 Act; or
- (b) Part III of the Local Government Finance Act 1982(a)

which would, but for this Order, have fallen to be discharged on or after 31st July 1989 by the Residuary Body shall be discharged by Rotherham.

PART IV

MISCELLANEOUS AND GENERAL

Apportionment

12.—(1) All money transferred to or sums realised by Rotherham by or in pursuance of the transfer by article 6 or 10 of this Order of any property or rights shall after deduction of any relevant expenditure be apportioned among the local councils; and Rotherham shall, not later than the end of the financial year following that in which it is received, pay the appropriate proportion to each of the other local councils and shall retain the balance.

(2) If in any financial year the aggregate in that year of the money and sums referred to in paragraph (1) is insufficient to meet any relevant expenditure for that year, that expenditure shall, to the extent that it is not met from the aggregate, be apportioned

(a) 1982 c.32.

among the local councils; and the appropriate proportion shall be recoverable by Rotherham from each of the other councils.

(3) In this article, "relevant expenditure" means expenditure attributable to this Order which is not defrayed by virtue of any other provision of this Order.

Continuity of the exercise of functions

13.—(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 Pensions Authority or Rotherham shall so far as is required for continuing its effect after the transfer date have effect as if done by or in relation to that Authority or that council.

(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 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 a manner as may be appropriate in consequence of this Order.

Continuity of employment in certain cases

14. Where the employment by the Residuary Body of any person is terminated, and that termination is attributable to any provision of this Order, regulation 5 (continuity of employment) of the Local Government Superannuation (Local Government Reorganisation) Regulations 1985(a) shall apply as if, for the purposes of paragraph (1)(b)(ii), the termination were not attributable to an Order under section 67(3) of the 1985 Act.

Complaints of maladministration by Residuary Body

15.—(1) The Parliamentary Commissioner may investigate or, as the case may be, continue to investigate a complaint of maladministration by the Residuary Body notwithstanding its winding up.

(2) In relation to any such investigation begun or continued after the transfer date, the Parliamentary Commissioner Act 1967(b) shall apply as if for any reference to the principal officer of the Residuary Body there were substituted—

(a) where the complaint relates to the exercise of a function which by virtue of this Order becomes a function of the Pensions Authority, a reference to the proper officer of that Authority; or

(b) in any other case, a reference to the proper officer of Rotherham, and as if any specified action had been taken by that Authority or Rotherham, as the case may be.

9th May 1989

Nicholas Ridley
Secretary of State for the Environment

(a) S.I. 1985/1515.

(b) 1967 c.13; applied to residuary bodies by paragraph 11 of Schedule 13 to the Local Government Act 1985.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for the winding up of the South Yorkshire Residuary Body in pursuance of a scheme submitted by that Body to the Secretary of State under section 67 of the Local Government Act 1985.

Articles 2 to 9 have effect on 30th June ("the transfer date"). Article 2 provides for mortgages and for property that the Residuary Body has agreed to sell, or which is the subject of an option to purchase, to transfer to the council of the metropolitan borough of Rotherham; and for other property to vest in the council of the district in which it is situated. Article 2(3) provides for the distribution of money attributable to mortgages and the disposal of property transferred to Rotherham.

Article 3 provides for the distribution of monies belonging to the Residuary Body and provides for the Residuary Body to set aside a special fund to meet their expenditure between the transfer date and 31st July 1989. Article 4 provides for the transfer of remaining functions (in relation to contracts of employment etc. and pensions) to the South Yorkshire Pensions Authority, except in relation to those employees who remain in employment with the Residuary Body on and after the transfer date.

Article 5 provides for payment or recovery of the former South Yorkshire County Council's entitlement to block grant to be made to or from the district councils in the county. Article 6 transfers the remaining rights and liabilities of the Residuary Body to the Pensions Authority or Rotherham. Articles 7 and 8 make consequential provision for the treatment of capital receipts. Article 9 requires Rotherham to notify the other councils and the Secretary of State of the amounts of a capital nature which are likely to be available for distribution and which are, in fact, distributed.

Article 10 winds the Residuary Body up on 31st July 1989, transferring its remaining functions, property, rights and liabilities to Rotherham for the benefit of all the councils in the county or, insofar as they relate to contracts of employment to the Pensions Authority.

Article 11 confers on Rotherham the Residuary Body's remaining functions in relation to its accounts.

Article 12 makes general provision for apportioning among the councils in the county the sums received and paid by Rotherham. Article 13 provides for continuity in the exercise of functions, and article 14 for the treatment of the employment of the Residuary Body's staff who take up other local government service as continuous for superannuation purposes. Article 15 provides for the handling of complaints of maladministration by the Residuary Body.