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STATUTORY INSTRUMENTS

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**1992 No. 2257**

**EDUCATION, ENGLAND AND WALES  
LONDON GOVERNMENT**

**The Education (London Residuary Body) (Transfer  
of Functions and Property) (No. 2) Order 1992**

*Made - - - - 16th September 1992*  
*Laid before Parliament 17th September 1992*  
*Coming into force - - 30th September 1992*

Whereas the London Residuary Body, acting pursuant to section 187(4) of the Education Reform Act 1988<sup>(1)</sup>, has submitted to the Secretary of State a scheme for its winding up and the disposal of its remaining functions, property, rights and liabilities;

And whereas the London Residuary Body, acting pursuant to section 67(1)(a) of the Local Government Act 1985<sup>(2)</sup>, has submitted proposals to the Secretary of State for the transfer of certain functions, property, rights and liabilities other than those connected with its functions under the Education Reform Act 1988;

And whereas the Secretary of State has decided to give partial effect to that scheme and partial effect to those proposals in both cases with modifications;

Now, therefore, the Secretary of State, in exercise of the powers conferred on him by sections 180(4), 185(8)<sup>(3)</sup> and (10), 187(5)(b) and (7), 231(2) and (3) and 232(5) of the Education Reform Act 1988 and sections 67(3), 77<sup>(4)</sup>, 100(2) and (4) and 101 of the Local Government Act 1985, and of all other powers enabling him in that behalf, hereby makes the following Order:

**“ARRANGEMENT OF ARTICLES**

**1. Citation, commencement and interpretation**

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(1) 1988 c. 40.

(2) 1985 c. 51.

(3) Section 185(8) was amended by S.I.1990/268.

(4) Section 77 was amended by the Local Government and Housing Act 1989 (c. 42), Schedule 12, Part I and S.I.1990/268 and 776.

2. Transfer of land
3. Transfer of property other than land
4. Charitable property
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11. Transfer of records
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13. Apportionment of receipts and expenditure of Kensington and Chelsea
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15. Continuity of the exercise of functions
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18. Miscellaneous

### **Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Education (London Residuary Body) (Transfer of Functions and Property) (No. 2) Order 1992 and shall come into force on 30th September 1992.

(2) In this Order, unless the context otherwise requires—

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

“the 1988 Act” means the Education Reform Act 1988;

“the 1990 Order” means the London Residuary Body (Transfer of Property etc.) Order 1990(5);

“the 1991 Order” means the London Residuary Body (Transfer of Compensation Functions) Order 1991(6);

“the 1992 Order” means the Education (London Residuary Body) (Transfer of Compensation Functions) Order 1992(7);

“the abolished council” means the former Greater London Council;

“the Beaufof Institute” means the property registered at H.M. Land Registry under Title No. 79312 together with the rights set out in Part II of Schedule 4 to the Education (London Residuary Body) (Property Transfer) Order 1992(8) but excepting the rights set out in Part I of that Schedule;

“Bromley” means the council of the London Borough of Bromley;

“clawback covenants” means—

- (a) any covenants, including any security for enforcing the same, given in favour of the LRB or its predecessors in title under sections 155 and 156 of the Housing Act 1985(9) (repayment of discount on early disposal of dwelling-house); and

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(5) S.I. 1990/419.

(6) S.I. 1991/490.

(7) S.I. 1992/331.

(8) S.I. 1992/587.

(9) 1985 c. 68; sections 155 and 156 were amended by the Housing and Planning Act 1986 (c. 63), section 2(3) and Schedule 5, Part I, paragraph 1(2) and (5) and the Housing Act 1988 (c. 50), Schedule 17, Part I, paragraph 41 and Part II, paragraph 106.

- (b) any other covenants (whether restrictive or positive), including any security for enforcing the same, given in favour of the LRB or its predecessors in title where such covenants were—
- (i) not expressed to be given for the benefit or protection of any land, or
  - (ii) contained in a lease and provided in whatever terms for any capital sum to be payable in connection with any development or change of use of the land;

“the Common Council” means the Common Council of the City of London in their capacity as a local authority;

“development related rights” means copyright, rights of user and other rights of any description in or relating to drawings, surveys, calculations, computer software or other material prepared or created in connection with the possible redevelopment of the South Bank property;

“expenditure” in relation to Bromley or Kensington and Chelsea includes administration expenses properly incurred by them;

“ILEA” means the former Inner London Education Authority;

“inner London council” means a council of an inner London borough;

“Kensington and Chelsea” means the council of the Royal Borough of Kensington and Chelsea;

“London borough council” means a council of a London borough;

“the LPFA” means the London Pensions Fund Authority<sup>(10)</sup>;

“the LRB” means the London Residuary Body;

“property” does not include records and, except in articles 4, 10(4), 13 and 14, does not include cash or the balance of any fund or account;

“records” includes any material in written or other form and references to records include references to any copyright or other intellectual property of the LRB therein;

“the Riverside Walk and Open Space in Upper Ground” means all lands within the black verge on Plan No. 3080—700 titled “Plan A referred to in the Education (London Residuary Body) (Transfer of Functions and Property) (No. 2) Order 1992”;

“South Bank movables” means—

- (i) any property in or on the South Bank property,
- (ii) any property used or intended to be used exclusively for the discharge of functions on the South Bank property and which is kept elsewhere when not in use,
- (iii) any vehicles and other mobile equipment normally kept on the South Bank property, and
- (iv) any property which is normally kept in or on the South Bank property and which is immediately before the transfer date on loan from the LRB to another person or body;

“the South Bank property” means all lands within the black verge on Plan No. 3080—699 titled “Plan B referred to in the Education (London Residuary Body) (Transfer of Functions and Property) (No. 2) Order 1992”; and

“the transfer date” means 1st October 1992.

- (3) In this Order, references to the LRB’s functions, rights or liabilities under the 1988 Act are references to functions transferred to or conferred on the LRB by the 1988 Act or any order

made or direction given thereunder or to rights or liabilities transferred to the LRB, or acquired or incurred by it by virtue of, or in the exercise of any of its functions under, the 1988 Act or any order made or direction given thereunder.

(4) In this Order references to interests in land or other property do not include references to interests under or by virtue of a mortgage or charge.

(5) For the purposes of any provision of this Order which requires the payment or recovery of sums by Kensington and Chelsea 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 area of all the inner London councils and the Common Council; and
- (b) the population of an area means its relevant population as calculated in accordance with section 69 of the Local Government Finance Act 1988<sup>(11)</sup>.

(6) For the purposes of any provision of this Order which requires the payment or recovery of sums by Bromley 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 Greater London; and
- (b) the population of an area means its relevant population as calculated in accordance with section 69 of the Local Government Finance Act 1988.

(7) For the purposes of articles 13(5) and 14(5)—

- (a) the standard rate, in relation to a year or part of a year, is the base rate quoted by the reference banks and effective on 15th March (or, if that day is not a business day, the next business day) of the preceding year; or if different base rates are quoted and so effective, the rate which, when the base rate quoted by each bank is ranked in a descending sequence of seven, is fourth in the sequence;
- (b) the reference banks, in relation to any 15th March, are the seven largest institutions—
  - (i) authorised by the Bank of England under the Banking Act 1987<sup>(12)</sup>, and
  - (ii) incorporated in and carrying on a deposit-taking business within the United Kingdom,

which quote a base rate in sterling effective as mentioned in sub-paragraph (a) above;

- (c) the size of an institution is to be determined by reference to its total consolidated gross assets denominated in sterling, as shown in its audited end- year accounts last published before the relevant 15th March; and
- (d) a “deposit-taking business” has the meaning given in section 6 of the Banking Act 1987 but subject to any order under section 7 of that Act.

(8) In paragraph (7), the reference to the ‘consolidated gross assets’ of an institution is a reference to the gross assets of that institution together with any subsidiary (within the meaning of section 736 of the Companies Act 1985)<sup>(13)</sup>.

(9) Unless the context otherwise requires any reference in this Order to—

- (a) a numbered article or Schedule is a reference to the article of or Schedule to this Order so numbered; and

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<sup>(11)</sup> 1988 c. 41; section 69 was amended by the Local Government and Housing Act 1989 (c. 42), Schedule 5, paragraphs 50 and 79(3).

<sup>(12)</sup> 1987 c. 22.

<sup>(13)</sup> 1985 c. 6; section 736 was substituted by the Companies Act 1989 (c. 40), section 144(1).

- (b) a numbered paragraph is a reference to the paragraph so numbered in the article or Schedule in which the reference appears.

### **Transfer of land**

2.—(1) Subject to paragraphs (2), (3) and (6), on the transfer date—

- (a) all interests of the LRB in Globe House, 4 Temple Place, London WC2R 3HP shall vest in Kensington and Chelsea subject to the condition that they be disposed of as soon as reasonably practicable;
- (b) all interests of the LRB in that part of the former Rachel McMillan College, Creek Road, London SE8 occupied by the University of Greenwich at the date that this Order is made shall vest in the University of Greenwich and all the interests of the LRB in those parts of the said former Rachel McMillan College occupied by Goldsmiths' College at such date shall vest in Goldsmiths' College;
- (c) all interests of the LRB in the Riverside Walk and Open Space in Upper Ground shall vest in the council of the London Borough of Lambeth;
- (d) all interests of the LRB in Manresa House, Roehampton shall vest in Kensington and Chelsea; and
- (e) all interests of the LRB in all other land shall vest in the London borough council in whose area the land is situated or, if the land is situated in their area, the Common Council.

(2) The interests of the LRB in the South Bank property and in property held exclusively for charitable purposes shall not transfer under paragraph (1).

(3) Paragraph (1) shall not operate so as to vest in the relevant transferee any interests of the LRB arising pursuant to clawback covenants.

(4) All rights and liabilities of the LRB in, or acquired or incurred in relation to or in connection with, land transferred by paragraph (1) shall vest on the transfer date in the council or body to which such land is so transferred.

(5) All records held by the LRB relating exclusively to land, rights or liabilities transferred by paragraph (1) or (4) shall vest on the transfer date in the council or body to which such land, rights or liabilities are so transferred.

(6) The interests of the LRB transferred by paragraphs (1)(b) and (4) are transferred subject to the condition that—

- (a) if the University of Greenwich ceases to use any of the interests transferred to it for educational purposes or wishes to dispose of them it shall offer to transfer those interests to Goldsmiths' College in return for a payment to be agreed; and
- (b) if Goldsmiths' College ceases to use for educational purposes or wishes to dispose of the interests in the catering blocks in the former Rachel McMillan College transferred to it, it shall offer to transfer them to the University of Greenwich in return for a payment to be agreed.

Provided that if an offer is not accepted within three months it shall lapse and the body making the offer shall be entitled to dispose of its interests. If no agreement as to the amount of the payment has been reached within six months of the offer being made then the amount shall be fixed by the Secretary of State.

### **Transfer of property other than land**

3.—(1) Where an interest in land vests by virtue of article 2 in any council or body, any property in or on the land, being property held by the LRB for the purposes of any of its functions, shall vest in the transfer date in that council or body.

(2) Paragraph (1) applies—

- (a) to property used or intended to be used exclusively for the discharge of functions on any land, and which is kept elsewhere when not in use;
- (b) to vehicles and other mobile equipment which are normally kept on any land; and
- (c) to property which is normally kept in or on land and which is immediately before the transfer date on loan from the LRB to another person or body,

as it applies to property in or on that land.

(3) The reference in paragraph (1) to the vesting of any property shall be construed as including a reference to the vesting of rights and liabilities of the LRB in respect of any agreement relating to such property.

(4) On the transfer date all interests of the LRB in the Roman Ship and other artifacts held on loan from the LRB by the Board of Governors of the Museum of London shall vest in that body.

(5) The interests of the LRB in property referred to in articles 7(2), 8(3) and 9(2) shall not transfer under this article.

(6) On the transfer date all records held by the LRB relating exclusively to property, rights or liabilities transferred by this article shall vest in the council or body to which such property, rights or liabilities are so transferred.

(7) Any vehicle licence, operator's licence, road service licence, plating certificate or other document issued in respect of any vehicle the property in which is transferred by this article shall have effect as if it had been issued to the council or body to whom property in such vehicle is transferred ("the transferee") and any reference to the LRB or ILEA in any registration book or other document issued in respect of such a vehicle shall have effect as a reference to the transferee.

### **Charitable property**

4.—(1) All interests of the LRB in property held exclusively for charitable purposes, other than interests acquired by the LRB under or by virtue of the 1988 Act, shall vest on the transfer date for the like purposes in Bromley.

(2) Subject to paragraph (3), all interests acquired by the LRB under or by virtue of the 1988 Act in property held exclusively for charitable purposes shall vest on the transfer date for the like purposes in Kensington and Chelsea.

(3) All interests of the LRB in the Beaufoy Institute shall vest on the transfer date in the council of the London Borough of Lambeth and shall be held by that council upon the trusts applicable thereto by virtue of a scheme made on 20th July 1909 by the Board of Education under the Charitable Trusts Acts 1853 to 1894.

(4) All powers vested in the LRB in relation to any property transferred by paragraph (1), (2) or (3) shall vest on the transfer date in the council to which such property is so transferred.

(5) All records held by the LRB relating exclusively to interests or powers transferred by this article shall vest on the transfer date in the council to which such interests or powers are so transferred.

### **Transfer of greater London monies**

5. On the transfer date the LRB shall transfer from balances held on its greater London revenue account—

- (a) to Bromley the sum of £1 million; and
- (b) to the National Rivers Authority the sum of £1,712,755.

### **Transfer of inner London monies**

6.—(1) Immediately before the transfer date the LRB shall set aside from balances held on its inner London revenue account the sum of £730,000 (“the special fund”).

(2) On the transfer date the LRB shall transfer £230,000 from the special fund to the council of the London Borough of Lambeth to be applied only for the repair, improvement and running expenses of the Beaufoy Institute.

(3) On 31st December 1992 the LRB shall transfer £500,000 from the special fund to the LPFA.

- (a) (4) The LPFA shall apply the sum transferred under paragraph (3) and the sums referred to in article 4(1) of the 1991 Order and article 6(1) of the 1992 Order only for defraying expenditure incurred on, or in connection with, the functions, rights and liabilities vested in the LPFA by articles 7, 8 and 9 of this Order, article 2 of the 1991 Order and articles 2, 4 and 5 of the 1992 Order;
- (b) the 1991 Order shall be amended by the deletion of article 4(2); and
- (c) the 1992 Order shall be amended by the deletion of article 6(2).

(5) Immediately before the transfer date the LRB shall set aside from balances held on its inner London revenue account the sum of £21.6 million of which—

- (a) £1 million may be applied only for defraying expenditure incurred by the LRB on and after the transfer date; and
- (b) £20.6 million may be applied only for defraying expenditure incurred by the LRB in respect of rights and liabilities conferred or imposed on the LRB by the Rates and Precepts (Final Adjustments) Order 1991(14).

(6) On the transfer date all monies representing the LRB’s inner London revenue and capital accounts, other than the sums referred to in paragraphs (1) and (5) and monies referred to in articles 7(2), 8(3) and 9(2), shall vest in Kensington and Chelsea (disregarding in calculating the amount to be so vested any deductions that fall to be made from those accounts in respect of accrued and potential liabilities).

### **Compensation and superannuation matters**

7.—(1) Subject to paragraph (3), on 1st January 1993 all functions, rights and liabilities of the LRB in relation to the following, where they arise in relation to any contract of employment with the LRB, with the abolished council or with ILEA terminating before that date, shall transfer to the LPFA—

- (a) compensation under regulations made under section 24 of the Superannuation Act 1972(15);
- (b) such compensation as is mentioned in section 8(1)(b) of the Pensions (Increase) Act 1971(16);

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(14) S.I. 1991/185.

(15) 1972 c. 11.

(16) 1971 c. 56.

- (c) gratuities or benefits payable by the LRB under Part K or L of the Local Government Superannuation Regulations 1986<sup>(17)</sup>;
- (d) compensation payable under the London Government Reorganisation (Staff Compensation) Order 1988<sup>(18)</sup>;
- (e) liabilities which are vested in or fall to be discharged by the LRB under or by virtue of section 179 of the 1988 Act;
- (f) compensation payable under section 181 of the 1988 Act;
- (g) any redundancy payment payable under Part VI of the Employment Protection (Consolidation) Act 1978<sup>(19)</sup>;
- (h) increases payable under the Pensions (Increase) Act 1971 where the payment of the relevant pension falls within sub-paragraphs (a) to (g) above; and
- (i) the LRB's responsibilities, as former employing authority, under regulation 3 of the Local Government Superannuation (Miscellaneous Provisions) Regulations 1986<sup>(20)</sup>.

(2) On 1st January 1993 all records, monies and other personal property held by the LRB exclusively for or in connection with any of the matters specified in paragraph (1) shall vest in the LPFA.

(3) This article shall not apply in relation to any functions, rights and liabilities which were transferred to the LPFA by virtue of the 1991 Order or the 1992 Order.

#### **Transfer of employer liability functions etc.**

**8.**—(1) Subject to paragraphs (2) and (4), all the functions, rights and liabilities of the LRB which relate to, or arise from, any contract of employment with the abolished council, ILEA or the LRB terminating before 1st January 1993 shall on that day transfer to, or vest in, the LPFA.

(2) Paragraph (1) shall not apply to any rights and liabilities of the LRB in relation to any cause of action or proceeding brought by a third party against the abolished council, ILEA or the LRB, or against any employee of the abolished council, ILEA or the LRB, or against both such an employee and his employer.

(3) On 1st January 1993 all records, monies and other personal property held or used by the LRB exclusively for or in connection with any of the matters specified in paragraph (1) shall vest in the LPFA.

(4) Paragraph (1) shall not apply in relation to any functions, rights and liabilities which were transferred to the LPFA by virtue of the 1992 Order.

#### **Transfer of employees' claims for personal injury and damage to property**

**9.**—(1) On 1st January 1993 there shall vest in the LPFA the functions, rights and liabilities of the LRB in relation to any proceedings or cause of action in respect of a claim for personal injury or for damage to property by a person who at the relevant time was an employee of the LRB and whose contract of employment terminates before that date, insofar as such claim arose out of or in the course of his employment and such functions, rights and liabilities do not transfer to the LPFA pursuant to article 8 and were not transferred to the LPFA pursuant to the 1991 Order or the 1992 Order.

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(17) S.I. 1986/24 amended by S.I. 1986/380, 1987/293, 1579, 2110, 1988/466, 1989/371, 372, 1462, 1624, 1815, 1990/503, 1709, 2480, 1991/1203, 2471, 2522 and 1992/172.

(18) S.I. 1988/1542.

(19) 1978 c. 44.

(20) S.I. 1986/380.



(2) On 1st January 1993 all records, monies and other personal property held by the LRB exclusively for or in connection with any of the matters specified in paragraph (1) shall vest in the LPFA.

### **Transfer of residual property, rights and liabilities**

**10.**—(1) Subject to paragraphs (2) and (5), the benefit of all clawback covenants shall vest on the transfer date in Bromley.

(2) The benefit of all clawback covenants—

- (a) vested in the LRB; or
- (b) relating to land that was vested in the LRB,

by virtue of section 180 of the 1988 Act shall vest on the transfer date in Kensington and Chelsea.

(3) On the transfer date all copyright or other intellectual property of the LRB in records vested in another body by article 12 of the Local Government Reorganisation (Property etc.) Order 1986<sup>(21)</sup> shall vest in that body.

(4) Subject to the preceding provisions of this Order and to paragraphs (5), (6), (7), (8) and (10), on the transfer date—

- (a) all rights and liabilities of the LRB under the 1988 Act, and all property (other than land but including cash and the balance of any fund or account) held or acquired by the LRB under, or by virtue of, or in the exercise of any of the LRB's functions under, the 1988 Act or any order made or direction given thereunder shall vest in Kensington and Chelsea; and
- (b) all remaining rights, liabilities and property (other than land, the South Bank movables, cash and the balance of any fund or account) of the LRB shall vest in Bromley.

(5) The rights and liabilities of the LRB in, or acquired or incurred in relation to or in connection with, the South Bank property or South Bank movables including rights under clawback covenants and development related rights shall not transfer under paragraph (4).

(6) The rights and liabilities conferred or imposed on the LRB by the Rates and Precepts (Final Adjustments) Order 1991 shall not transfer under paragraph (4).

(7) The rights and liabilities of the LRB in respect of the Pits for the disposal of waste at Stone, Dartford in Kent shall not transfer under paragraph (4).

(8) The right to receive payments in respect of any levy issued by the LRB under the Levying Bodies (General) Regulations 1990<sup>(22)</sup> shall not transfer under paragraph (4).

(9) All liabilities of the LRB incurred under article 12(2) in the concurrent exercise of powers vested in—

- (a) Kensington and Chelsea; and
- (b) Bromley,

by article 12(1) shall, on 1st January 1993, vest in Kensington and Chelsea and Bromley respectively.

(10) The preceding provisions of this article shall not apply to any rights or liabilities referred to in article 7, 8 or 9.

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<sup>(21)</sup> S.I. 1986/148.

<sup>(22)</sup> S.I. 1990/70.

(11) On 1st January 1993 all liabilities of the LRB to reimburse the LPFA in respect of sums paid by it as the LRB's agent shall vest in Kensington and Chelsea.

### **Transfer of records**

**11.**—(1) Subject to the preceding provisions of this Order and to paragraphs (2) and (3), on the transfer date—

(a) all records of the LRB relating exclusively to any function which by virtue of this Order becomes a function of any council or body (“the transferee”) shall transfer to and vest in the transferee; and

(b) all remaining records of the LRB shall transfer to and vest in the Common Council.

(2) Records relating to functions, property, monies, rights and liabilities referred to in article 12(3) or (4) shall not transfer under this Order.

(3) This article shall not apply to any records referred to in article 7, 8 or 9.

(4) Where any records transferred to the Common Council by virtue of a relevant order relate wholly or partly to any property, function, right or liability transferred by the 1985 Act, or by the 1988 Act, or by a relevant order, the council, body or authority to which that property, function, right or liability has been transferred shall have the right to inspect those records and, at its own expense, to take copies.

(5) In paragraph (4) “relevant order” means any order made under the 1985 Act or the 1988 Act (including this Order).

### **Transfer of functions**

**12.**—(1) Subject to the preceding provisions of this Order and to paragraphs (2), (3) and (4), on the transfer date—

(a) all functions of the LRB under the 1988 Act shall vest in Kensington and Chelsea; and

(b) all remaining functions of the LRB shall vest in Bromley.

(2) The LRB may continue to exercise powers which have vested in Kensington and Chelsea or Bromley under paragraph (1) (in particular the power to employ staff) no later than 31st December 1992.

(3) Paragraph (1) shall not have the effect of transferring from the LRB to any other authority any functions which under the 1985 Act are exercisable or fall to be discharged in relation to any of the following matters—

(a) the South Bank property;

(b) South Bank movables;

(c) any monies held on any greater London account;

(d) any rights or liabilities in, or acquired or incurred in relation to or in connection with, the South Bank property or such monies including rights under clawback covenants and development related rights;

(e) any rights and liabilities in respect of the Pits for the disposal of waste at Stone, Dartford in Kent; or

(f) records relating to the matters set out in sub-paragraphs (a) to (e) above or to the functions which under the 1985 Act are exercisable or fall to be discharged in relation to them.

(4) Paragraph (1) shall not apply to—

- (a) functions under sections 75, 77(23), 78 and 79 of the 1985 Act;
- (b) functions under paragraphs 3, 5 and 10 of Schedule 13 to the 1985 Act;
- (c) functions under section 185 of the Education Reform Act 1988;
- (d) functions under regulations made under section 74 of the Local Government Finance Act 1988(24); or
- (e) functions referred to in article 7, 8 or 9.

### **Apportionment of receipts and expenditure of Kensington and Chelsea**

**13.**—(1) All monies vested in Kensington and Chelsea by virtue of this Order and all sums realised by Kensington and Chelsea in consequence of the transfer by virtue of this Order of any property or rights (other than by virtue of article 2(1)(e)) shall, after deduction of any relevant expenditure and after setting aside from such monies such amount, if any, as Kensington and Chelsea estimates to be required for future such expenditure, be apportioned among the inner London councils and the Common Council in the appropriate proportions; and Kensington and Chelsea shall, not later than the end of the financial year in which such monies are received, pay the appropriate proportion to each of the other inner London councils and the Common Council and shall retain the balance.

(2) If in any financial year the aggregate in that year of the monies referred to in paragraph (1), after bringing into account any amounts set aside as provided in paragraph (1), is insufficient to meet any relevant expenditure of Kensington and Chelsea for that year, the expenditure shall, to the extent that it is not met from the aggregate, be apportioned among the inner London councils and the Common Council; and the appropriate proportion shall be recoverable by Kensington and Chelsea from each of the other inner London councils and the Common Council.

(3) Recovery of the appropriate proportion referred to in paragraph (2) may be effected at any time whether or not that proportion has been included in any estimate given under paragraph (4).

(4) Kensington and Chelsea shall by 1st February in each financial year commencing with the year beginning on 1st April 1992 give to each inner London council and the Common Council its best estimate of the sum, if any, to be recovered by it from them under paragraph (2) in the next financial year.

(5) Where expenditure is to be recovered by Kensington and Chelsea under paragraph (2) a demand setting out the appropriate proportion payable by that council shall be served on each inner London council and the Common Council, and if that sum has not been paid within 28 days, or such longer period as may be specified by Kensington and Chelsea, of service of the demand, interest shall be payable thereon calculated at the standard rate on a day to day basis from the end of that period to the date of payment and compounded with 3 monthly rests.

(6) If in any financial year Kensington and Chelsea estimates that any sum set aside as provided in paragraph (1) is not required to meet any relevant expenditure in that or future financial years, such sum shall be apportioned among the inner London councils and the Common Council in the appropriate proportions; and Kensington and Chelsea shall, not later than the end of the financial year in question, pay the appropriate proportion to each of the other inner London councils and the Common Council and shall retain the balance.

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(23) Section 77 is amended by S.I. 1990/268 and 776 and the Local Government and Housing Act 1989 (c. 42), Schedule 12, Part I. This section is modified in its application to the LRB by the 1988 Act, section 185.

(24) 1988 c. 41; the current regulations are the Levying Bodies (General) Regulations 1990 (S.I. 1990/70).

- (7) As soon as reasonably practicable after the end of each financial year Kensington and Chelsea shall send to each of the other inner London councils and the Common Council a statement showing—
- (a) the total relevant expenditure incurred by it in that financial year;
  - (b) how that expenditure was financed; and
  - (c) the total amount recovered in respect of that expenditure from each inner London council and the Common Council.
- (8) For the purposes of this article “relevant expenditure” means—
- (a) expenditure incurred in consequence of the provisions of this Order including expenditure incurred before the transfer date in preparation for the transfer to Kensington and Chelsea of the functions, property, rights and liabilities transferred to it by this Order; and
  - (b) expenditure referred to in article 4(2) of the Education (London Residuary Body) (Transitional and Supplementary Provisions) Order 1992<sup>(25)</sup> (certain expenditure on or in connection with payments under section 1 or 2 of the Education Act 1962<sup>(26)</sup>) to the extent that the expenditure exceeds £680,000.

#### **Apportionment of receipts and expenditure of Bromley**

14.—(1) All monies vested in Bromley by virtue of this Order and all sums realised by Bromley in consequence of the transfer by virtue of this Order of any property or rights (other than by virtue of article 2(1)(e)) shall after deduction of any relevant expenditure and after setting aside from such monies such amount, if any, as Bromley estimates to be required for future such expenditure, be apportioned among the London borough councils and the Common Council in the appropriate proportions; and Bromley shall, not later than the end of the financial year in which such sums are received, pay the appropriate proportion to each of the other London borough councils and the Common Council and shall retain the balance.

(2) If in any financial year the aggregate in that year of the monies referred to in paragraph (1), after bringing into account any amounts set aside as provided in paragraph (1) and the available balance held under the 1990 Order, is insufficient to meet any relevant expenditure of Bromley for that year, the expenditure shall, to the extent that it is not met from the aggregate, be apportioned among the London borough councils and the Common Council in the appropriate proportions; and the appropriate proportion shall be recoverable by Bromley from each of the other London borough councils and the Common Council.

(3) Recovery of the appropriate proportion referred to in paragraph (2) may be effected at any time whether or not that proportion has been included in any estimate given under paragraph (4).

(4) Bromley shall by 1st February in each financial year commencing with the year beginning on 1st April 1992 give to each London borough council and the Common Council its best estimate of the sum, if any, to be recovered by it from them under paragraph (2) in the next financial year.

(5) Where expenditure is to be recovered by Bromley under paragraph (2) a demand setting out the appropriate proportion payable by that council shall be served on each London borough council and the Common Council, and if that sum has not been paid within 28 days, or such longer period as may be specified by Bromley, of service of the demand, interest shall be payable thereon calculated at the standard rate on a day to day basis from the end of that period to the date of payment and compounded with 3 monthly rests.

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<sup>(25)</sup> S.I. 1992/586.

<sup>(26)</sup> 1962 c. 12.

(6) If in any financial year Bromley estimates that any sum set aside as provided in paragraph (1) is not required to meet any relevant expenditure in that or future financial years, such sum shall be apportioned among the London borough councils and the Common Council in the appropriate proportions; and Bromley shall, not later than the end of the financial year in question, pay the appropriate proportion to each of the other London borough councils and the Common Council and shall retain the balance.

(7) As soon as reasonably practicable after the end of each financial year Bromley shall send to each of the other London borough councils and the Common Council a statement showing—

- (a) the total relevant expenditure incurred by it in that financial year;
- (b) how that expenditure was financed; and
- (c) the total amount recovered in respect of that expenditure from each London borough council and the Common Council.

(8) For the purposes of this article—

- (a) “the available balance held under the 1990 Order” means so much, if any, of the sum of £2 million referred to in article 6 of the 1990 Order as remains unexpended less such part thereof as Bromley estimates will be required to defray future expenditure incurred in consequence of the provisions of the 1990 Order; and
- (b) “relevant expenditure” means expenditure incurred in consequence of the provisions of this Order including expenditure incurred before the transfer date in preparation for the transfer to Bromley of the functions, property, rights and liabilities transferred to it by this Order.

(9) The 1990 Order shall be amended by the addition at the end of article 6(2) of the words “or of the Education (London Residuary Body) (Transfer of Functions and Property) (No. 2) Order 1992”.

### **Continuity of the exercise of functions**

**15.—**(1) Anything done by or in relation to (or having effect as if done by or in relation to) the LRB in the exercise of or in connection with a function which by virtue of this Order becomes the function of any council or body (“the transferee”) 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 transferee.

(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.

### **Complaints of maladministration by the LRB**

**16.—**(1) The Parliamentary Commissioner may investigate or, as the case may be, may continue to investigate a complaint of maladministration by the LRB arising in relation to any functions, property, rights or liabilities transferred by this Order or by any Order referred to in paragraph (2).

(2) In relation to any such investigation begun or continued after the transfer date, the Parliamentary Commissioner Act 1967(27) shall apply as if for any reference to the principal officer of the LRB there were substituted—

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(27) 1967 c. 13, amended by the Parliamentary and Health Service Commissioners Act 1987 (c. 39).

- (a) where the complaint relates to the exercise of a function which by virtue of this Order, the London Government Reorganisation (Pensions etc.) Order 1989(28), the 1991 Order or the 1992 Order becomes a function of the LPFA, a reference to the officer of the LPFA appointed by it for the purpose of dealing with such complaints; or
  - (b) where the complaint relates to the exercise of a function, or to property, rights or liabilities, which by virtue of this Order or any order under the 1985 Act or the 1988 Act transfer to or vest in any council, a reference to the proper officer of that council;
- and as if any specified action had been taken by the LPFA, or, as the case may be, by the relevant council.

### Disputes

17.—(1) In the event of a dispute between any councils as to the amount of any sum payable or expenditure recoverable by Kensington and Chelsea or Bromley pursuant to this Order, the matter shall be determined by an arbitrator appointed by the Secretary of State; and section 31 of the Arbitration Act 1950(29) shall have effect in relation to the arbitration as if it were an arbitration to which that section applies.

(2) An application to the Secretary of State to appoint an arbitrator must be made within one month of the date that Kensington and Chelsea or Bromley, as the case may be, first gives notice in writing to the council or councils in question stating the amount of the sum payable or expenditure recoverable. If no such application is made the sum payable or expenditure recoverable shall be as stated by Kensington and Chelsea or Bromley as the case may be.

### Miscellaneous

18.—(1) The following orders are hereby revoked—

- (a) the Education (Inner London Education Authority) (Horniman and Geffrye Museums) (Transfer of Functions) Order 1990(30) in so far as it is still in force; and
- (b) the Education (London Residuary Body) (Capital Money) Order 1991(31).

(2) Article 4 of the Education (Inner London Education Authority) (Transfer of Functions) Order 1991(32) shall be amended by the substitution of the words “the council of the Royal Borough of Kensington and Chelsea” for the words “the London Residuary Body”.

16th September 1992”

*John Patten*  
Secretary of State for Education

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(28) S.I. 1989/1815

(29) 1950 c. 27; section 31 was repealed in part by the Arbitration Act 1975 (c. 3), section 8(2), and amended by the Arbitration Act 1979 (c. 42), section 7(1).

(30) S.I. 1990/362; this Order has already been revoked in part by S.I. 1992/437.

(31) S.I. 1991/184; amended by S.I. 1992/331.

(32) S.I. 1991/1457.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order gives partial effect, with modifications, to a scheme submitted by the London Residuary Body (“the LRB”) for its winding up and for the disposal of its remaining functions, property, rights and liabilities under the Education Reform Act 1988.

This Order also gives partial effect, with modifications, to proposals submitted by the LRB under the Local Government Act 1985 for the transfer of certain functions, property, rights and liabilities other than those connected with its functions, property, rights and liabilities under the Education Reform Act 1988.

Article 2 provides for the transfer of the interests of the LRB in all land vested in it other than the South Bank property (which consists, amongst other properties, of County Hall).

Article 3 provides for the transfer of property other than land.

Article 4 provides for the transfer of the LRB’s interests in charitable property. Interests acquired under or by virtue of the Education Reform Act 1988 go to Kensington and Chelsea. All other interests go to Bromley. Specific provision is made in relation to the Beaufof Institute.

Article 5 transfers £1 million to Bromley for defraying expenditure incurred in consequence of the provisions of this Order. It also transfers £1,712,755 to the National Rivers Authority representing grant paid to the LRB under section 91 of the Land Drainage Act 1976 (c. 70) pursuant to section 42 of the [Thames Barrier and Flood Prevention Act 1972 \(c.xlv\)](#).

Article 6 transfers £230,000 to the council of the London Borough of Lambeth to be used for expenditure incurred in the running of the Beaufof Institute. £500,000 is transferred to the LPFA to be used for defraying expenditure incurred on or in connection with functions, rights and liabilities vested in the LPFA by this Order and previous orders involving the transfer of compensation functions.

The LRB retains £1 million for defraying expenditure incurred by it on and after 1st October 1992 and £20.6 million for defraying expenditure incurred in respect of rights and liabilities conferred by the Rates and Precepts (Final Adjustments) Order 1991.

All other monies representing the LRB’s inner London revenue and capital accounts, with certain specified exceptions, go to Kensington and Chelsea.

Articles 7, 8 and 9 transfer to the LPFA the LRB’s functions, rights and liabilities in relation to staff compensation and superannuation, employer liability and employee claims for personal injury and damage to property which have not already transferred to the LPFA under the London Residuary Body (Transfer of Compensation Functions) Order 1991 or the Education (London Residuary Body) (Transfer of Compensation Functions) Order 1992.

Article 10 transfers the LRB’s residual property, rights and liabilities excluding the South Bank property, the Pits for the disposal of Waste at Stone, Dartford in Kent and those under the Rates and Precepts (Final Adjustments) Order 1991.

Article 11 transfers the LRB’s records to the council or body to whom the functions to which they relate are transferred. All remaining records vest in the Common Council of the City of London.

Article 12 transfers the LRB’s functions under the Education Reform Act 1988 to Kensington and Chelsea and all its remaining functions, with specified exceptions in the main relating to the South Bank property, to Bromley. Functions relating to the levying or the borrowing of money are

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

excluded from transfer. The LRB may continue to exercise the functions transferred concurrently with Kensington and Chelsea and Bromley until 31 December 1992.

Articles 13 and 14 provide how Kensington and Chelsea and Bromley should apportion monies vested in, or realised by, them by virtue of this Order and how they should apportion expenditure which cannot be met from such monies.

Article 15 provides for continuity in the exercise of functions.

Article 16 provides for the Parliamentary Commissioner to investigate or continue to investigate complaints of maladministration by the LRB.

Article 17 provides for a mechanism for the handling of disputes and article 18 contains miscellaneous provisions.

Plans showing the land transferred may be inspected during normal office hours at the offices of the Council or body to which it is transferred by this Order.

Copies of the plans referred to in the definitions of “the Riverside Walk and Open Space in Upper Ground” and “the South Bank property” may be inspected during normal office hours at the Department of the Environment, 2 Marsham Street, London SW1 3EB and at the Greater London Records Office, 40 Northampton Road, London EC1R 0JU.

A copy of the scheme made by the Board of Education on 20th July 1909 under the Charitable Trusts Acts 1853 to 1894 may be inspected during normal office hours at Lambeth Education Department, Blue Star House, 234/244 Stockwell Road, London SW9 9SP.