STATUTORY INSTRUMENTS

1980 No. 320

LONDON GOVERNMENT

The Greater London Council (Transfer of Land and Housing Accommodation) Order 1980

Made - - -	*6th March 1980*
Laid before Parliament	*17th March 1980*
Coming into Operation	*31st March 1980*

Whereas the Greater London Council and certain London borough councils and district councils have requested the Secretary of State for the Environment to provide by an order under section 23(3) of the London Government Act 1963(**a**) for the transfer of certain land for the time being held by the Greater London Council for the purpose of development or redevelopment as housing accommodation and certain housing accommodation for the time being vested in the Greater London Council;

And whereas the said councils have agreed the terms of such transfer;

And whereas certain further matters appear to the Secretary of State necessary and proper for the purposes of or in consequence of that transfer;

Now therefore the Secretary of State, in exercise of powers conferred by sections 23(3) and 84 of the London Government Act 1963 and now vested in him(**b**) and in exercise of all other powers enabling him in that behalf, hereby makes the following order:—

Citation and commencement

1. This order may be cited as the Greater London Council (Transfer of Land and Housing Accommodation) Order 1980, and shall come into operation on 31st March 1980.

Interpretation

2.—(1) In this order—

"the deposited Schedules" means the Schedules prepared in duplicate and entitled "Properties transferred by the Greater London Council (Transfer of Land and Housing Accommodation) Order 1980" and numbered 1 to 45 each of which is and signed by an Assistant Secretary in the Department of the Environment and as to which further provision is made in article 3;

"excluded property" means land or housing accommodation described in the deposited Schedules but excluded from transfer by the terms of the said Schedules;

(**a**) 1963 c. 33.

(**b**) S.I. 1970/1681.

"the Council" means the Greater London Council;

"the relevant date" means the 1st April 1980 or such other date, being a date not later than 31st March 1981, as may be indicated in a deposited Schedule in respect of any property as the date on which the said property is transferred by this order;

"the Secretary of State" means the Secretary of State for the Environment;

"transferee authority", in relation to transferred property, means the London borough council or district council to whom that property is transferred; and

"transferred property" means the land or housing accommodation described in the deposited Schedules (other than excluded property) and transferred by this order.

(2) Without prejudice to the generality of section 23(5) of the London Government Act 1963, in this order, unless the context otherwise requires, any reference to housing accommodation shall include a reference to garages, parking spaces, shops and estate amenities.

(3) Any reference in this order to a numbered article shall, unless that reference is to an article of a specified order, be construed as a reference to the article bearing that number in this order.

(4) Any reference in an article of this order to a numbered paragraph shall, unless the reference is to a paragraph in a specified article, be construed as a reference to the paragraph bearing that number in the first-mentioned article.

(5) Any reference in a Schedule to this order to a numbered paragraph shall, unless the reference is to a paragraph in a specified Schedule, be construed as a reference to the paragraph bearing that number in the first-mentioned Schedule.

Deposited Schedules

3.—(1) One duplicate of each of the deposited Schedules is deposited in the offices of the Secretary of State and the other in the principal office of the Council.

(2) A copy of each deposited Schedule has been deposited with the appropriate transferee authority and shall be open to inspection at all reasonable times.

Transfer of property

4. On the relevant date the interest of the Council in the transferred property and (save as hereinafter provided) all liabilities attaching directly or indirectly to the Council in respect of its ownership or occupation of such property shall by virtue of this order be transferred to and vest in or attach to the respective transferee authority indicated in the deposited Schedules, and—

(*a*) subject to articles 6 and 7, all contracts, deeds, bonds, agreements and other instruments subsisting in favour of, or against, and all notices in force which were given (or having effect as if they had been given) by, or to, the Council in respect of such property and liabilities shall be of full force and effect in favour of, or against, the respective transferee authority; and

(*b*) subject to article 9, any action or proceeding or any cause of action or proceeding, pending or existing at the relevant date, by, or against, the Council in respect of such property and liabilities shall not be prejudicially affected by reason of this order, and may be continued, prosecuted and enforced by, or against, the respective transferee authority.

General words implied in transfer

5. Unless the Council and a transferee authority otherwise agree, section 62 of the Law of Property Act 1925(**a**) (which implies certain words in conveyances of land, subject to the terms of the conveyance and the provisions therein contained) shall have effect—

(*a*) in respect of any transferred property; and

(*b*) in respect of any property, being property vested in the Council, which is affected by the said transfer,

as if the property described in (*a*) and (*b*) respectively had been the subject of a conveyance on the relevant date.

Contracts for construction, modernisation etc. of transferred property

6.—(1) In the case of contracts entered into by the Council before the relevant date for the carrying out of works to any transferred property—

(*a*) if the works are for the construction, rehabilitation or modernisation of, or the carrying out of major works of improvement to, the property; or

(*b*) if the works arise from a major technical cause,

the Council shall be liable for and entitled to receive any payment due under or in respect of the contract.

(2) The Council shall determine for the purposes of paragraph (1) whether the works arise from a major technical cause and as soon as may be after the relevant date shall notify the appropriate transferee authority of any contract to which that paragraph applies.

(3) The Council may by notice in writing given to a transferee authority require that authority to assign to the Council the benefit and burden of any contract to which paragraph (1) applies, specifying a date when such assignment shall take place and on that date the transferee authority shall so assign the burden and benefit of such said contract notwithstanding any provision in the contract or otherwise purporting to prohibit or restrict such assignment.

Functions of supervising officers of works

7.—(1) Where—

(*a*) any payment falls to be made by or to the Council under article 6(1);

(*b*) on the relevant date transferred property comprises an estate or part of an estate which has not been completed; or

(*c*) The defects liability period under contract for the carrying out of works to transferred property of the kind referred to in article 6(1) has not expired,

the architect or other supervisory officer with responsibility for the execution of the works or the construction of such estate or part of an estate shall retain his functions under the contract notwithstanding that the contract is of full force and effect in favour of the transferee authority.

(2) The provisions of paragraph (1) shall cease to have effect if the benefit and burden of a contract to which the said paragraph (1) relates is assigned to the Council under article 6(3).

Legal proceedings

8. Any legal proceedings at the relevant date may be amended in such manner as may be necessary or proper in consequence of this order.

(**a**) 1925 c. 20.

Negligence and breach of statutory duty

9.—(1) The Council shall meet the full amount of any claim as to an act of negligence or breach of statutory duty made against them by a third party in respect of any transferred property provided that such claim—

(*a*) relates to an act or breach committed or occurring before the relevant date; and

(*b*) is settled for an amount in excess of £250.

(2) The transferee authority shall meet any such claim which is settled for an amount not exceeding £250.

Covenants affecting transferred property

10.—(1) The Council shall notify the appropriate transferee authority of any land within the extent of an area of transferred property in respect of which the Council have power under section 151 of the Housing Act 1957(**a**) to enforce any covenant against an owner for the time being of the land and such notification shall provide sufficient particulars of the said covenant.

(2) In respect of any such land—

(*a*) the Council shall consult with the transferee authority before exercising their power under the said section 151; and

(*b*) the transferee authority may require the Council to exercise the said power in any case where such exercise is required in the interests of the area of transferred property within the extent of which the land is situated.

11. Any covenant (not being a covenant to which article 10 applies) which would be enforceable by the Council immediately before the relevant date in respect of land within the extent of or adjoining an area of transferred property, being land which was sold or exchanged by the Council or by the London County Council and, immediately before such sale or exchange, was held by them for the purposes of the Housing Act 1957 or of any Act re-enacted by that Act, shall be of full force and effect in favour of the transferee authority.

Sharing of transferred property and other land

12. Where it appears expedient—

(*a*) to the Council for the purpose of any of their functions that the use of any transferred property; or

(*b*) to a transferee authority for the purpose of managing, maintaining or repairing their housing land or accommodation that the use of any excluded property,

should be shared between the Council and a transferee authority, the Council or the authority (as the case may be) may serve a notice on the other party requiring terms (by way of lease or otherwise) to be agreed for the sharing of the said transferred or excluded property.

Rent Books

13.—(1) In the case of any transferred property being premises to which the Landlord and Tenant Act 1962(**b**) applies, notification by the transferee authority to the tenant of the said property of the transfer effected by this order shall be deemed to be a compliance by the said authority with the requirements of section 2(1)(*a*) of the said Act.

(**a**) 1957 c. 56.

(**b**) 1962 c. 50.

(2) Paragraph (1) shall cease to apply in respect of any such premises when the transferee authority first provides a rent book or other similar document for use in respect of the said premises.

Byelaws

14. Any byelaw in force immediately before the relevant date for the regulation of any transferred property shall have effect as if it had been made by the appropriate transferee authority.

Vehicles and plant

15.—(1) As soon as may be after the coming into operation of this order the Council shall make such schemes as they may think fit for the transfer to transferee authorities of motor vehicles and plant belonging to the Council, being vehicles and plant wholly or partly kept and used in connection with the repair, maintenance or management of transferred property and on the date of the coming into force of any such scheme the motor vehicles and plant which are the subject matter of the scheme shall be transferred to and vest in the transferee authority concerned.

(2) Before making a scheme under paragraph (1) the Council shall—

(*a*) have regard to the needs of transferee authorities in relation to the repair, maintenance or management of the transferred property and also to the needs of the Council in relation to their remaining property; and

(*b*) consult any body appearing to the Council to represent transferee authorities.

(3) Articles 4 and 9 shall apply in respect of any motor vehicles and plant transferred under paragraph (1) as they apply in respect of transferred property save that there shall be substituted for the references to the "relevant date" in the said articles references to the date of the coming into force of the relevant scheme.

(4) In this article—

"motor vehicle" shall have the same meaning as in section 190(1) of the Road Traffic Act 1972(**a**); and

"plant" includes any equipment or machinery (other than a motor vehicle), whether or not movable or mechanically operated, and other devices used in connection with the repair, maintenance or management of land or property.

Goods and materials

16.—(1) All goods and materials belonging to the Council which on the relevant date are situate and normally kept on or in any transferred property shall on that date be transferred to and vest in the appropriate transferee authority.

(2) As soon as may be after the relevant date the Council shall make a scheme or schemes for the sharing or distribution among the Council and the transferee authorities of goods and materials transferred under paragraph (1) or for the value of such goods and materials to be adjusted between the Council and the said authorities and on the coming into force of any such scheme the Council and the said authorities shall give effect to it according to its terms.

(**a**) 1972 c. 20.

(3) Before making a scheme under paragraph (2) the Council shall—

(*a*) have regard to the needs of transferee authorities in relation to the repair, maintenance and management of the transferred property and to such needs of the Council in relation to their remaining property; and

(*b*) consult any body appearing to the Council to represent transferee authorities.

(4) Articles 4 and 9 shall apply in respect of any goods and materials transferred under paragraph (1) as they apply in respect of transferred property.

(5) In this article "goods and materials" means substances of all kinds, trade fittings and tools used in connection with the repair, maintenance or management of land or property.

Nomination rights

17. Schedule 1 to this order shall have effect with respect to the rights of the Council to nominate tenants to dwellings comprised in transferred property.

Carrying out of works of rehabilitation etc. to transferred property

18. Schedule 2 to this order shall have effect with regard to works for the rehabilitation, modernisation and improvement of transferred property and to works to such property arising from major technical causes.

Consolidated loan funds

19. Where by virtue of this order any matter in respect of which, if this order had not been made, sums would have become due and owing to a consolidated loans fund or loans pool is transferred to an authority other than the authority by whom such fund or pool is maintained on and after the relevant date, such sums shall be paid by the first-mentioned authority to the authority by whom the fund is maintained.

Transfer of outstanding debt

20. A transferee authority shall—

(*a*) from the relevant date assume liability for all repayments of principal, interest and management expenses relating to the loan debt outstanding at that date, on the transferred properties vested in that authority (including the cost of the land) and due to the consolidated loans fund of the Council;

(*b*) from the date on which the payment is made, assume a similar liability in respect of payments made by the Council after the relevant date under article 6; and

(*c*) discharge such liabilities by making payments to the Council of such amounts and at such times each year as shall be agreed between the Council and the transferee authority.

21. Where under this order or any adjustment made in consequence hereof any liability or part of a liability charged indifferently on all the revenues of the Council or on any particular revenues or fund of the Council is transferred to a transferee authority, the liability or part of the liability, as the case may be, shall be charged indifferently on all the revenues of that transferee authority and shall cease to be a charge on any revenues or fund of the Council.

Housing grants and subsidies

22.—(1) Schedule 3 to this order shall have effect in relation to housing grants and subsidies payable in respect of the transferred property.

(2) To enable the Council to provide the Secretary of State with such information as he may require from time to time in order to determine any question relating to a grant or subsidy or the amount thereof a transferee authority shall notify the Council of any action taken in respect of any transferred property being such action as may affect the payment of such a grant or subsidy or the amount thereof.

Payments in respect of net revenue cost of transferred property

23. Schedule 4 to this order shall have effect in relation to payments by the Council to transferee authorities in respect of the net revenue cost of transferred property.

Review of certain financial terms

24.—(1) Without prejudice to any provision in Schedules 3 or 4 to this order for reviewing the arrangements contained in either of those Schedules, if an enactment is passed after the coming into operation of this order which in the opinion of the Council or of any transferee authority significantly affects those arrangements the Council or the authority (as the case may be) may notify the other parties to the transfer effected by this order that the said arrangements should be reviewed.

(2) On the giving (or receiving) of a notification under paragraph (1) the Council, in consultation with any transferee authority which gave the said notification and with any body appearing to the Council to represent transferee authorities, shall review the said arrangements and such other arrangements may be agreed as the Secretary of State may approve.

(3) If the Council and the transferee authorities, having held a review under paragraph (2), fail to agree such other arrangements as are therein mentioned the Secretary of State, on the application of the Council or of the transferee authorities, may determine the said other arrangements.

Arbitration

25.—(1) Subject to any provision of this order, any dispute arising under this order or in consequence thereof shall be determined by an arbitrator appointed by agreement between the parties in dispute or, in default of agreement, by the Secretary of State and, subject as aforesaid, the provisions of the Arbitration Act 1950(**a**) shall apply to any arbitration under this article.

(2) Paragraph (1) shall include any dispute between the Council and a transferee authority—

(*a*) under article 12 whether it is expedient that the use of any property should be shared; or

(*b*) under article 15(2)(*a*) or article 16(3)(*a*) whether the Council has had any or sufficient regard to the needs of a transferee authority.

(**a**) 1950 c. 27.

Article 17 SCHEDULE 1

RIGHTS OF THE GREATER LONDON COUNCIL TO NOMINATE TENANTS TO TRANSFERRED PROPERTY

1.—(1) For the purpose of—

(*a*) assisting in meeting the requirements of the Council and of the London borough councils for housing accommodation arising from the discharge of any of their functions; and

(*b*) providing opportunities for the movement of persons requiring rented accommodation who reside in Greater London, in housing accommodation transferred by this order to district councils and in housing accommodation owned by the Council and situated outside Greater London,

the Council shall, until 31st March 1990, from time to time make, and operate, schemes for the allocation of vacancies in the dwellings transferred by this order in respect of which they enjoy the rights to arrange for the nomination of tenants conferred by paragraph 2.

(2) Without prejudice to the generality of the objectives specified in sub-paragraph (1), the Council, in preparing a scheme under this paragraph, shall have regard to:—

(*a*) the need to make provision for the re-housing of persons displaced by the discharge of the Council's functions;

(*b*) the need to make provision for persons formerly resident in Greater London to return to Greater London;

(*c*) the relative housing needs of the transferee authorities and of any London borough councils not being transferee authorities;

(*d*) the incidence and extent of homelessness within Greater London and within the areas of transferee authorities outside Greater London; and

(*e*) the need to make provision for the housing of sons and daughters residing with their parents in housing accommodation transferred by this order and situated outside Greater London.

(3) In preparing, reviewing or modifying a scheme under this paragraph, the Council shall consult any bodies which appear to the Council to represent transferee authorities.

(4) At the end of each year of its operation, a scheme made under this paragraph shall be reviewed by the Council and modified so far as is necessary in the light of the objectives specified in sub-paragraph (1) and of the considerations set out in sub-paragraph (2).

(5) To enable the Council to operate, review or modify a scheme made under this paragraph, a transferee authority shall provide the Council with such information as the Council may from time to time reasonably require.

(6) The Council shall provide the Secretary of State with such information as to the operation of a scheme made under this paragraph as he may reasonably require to satisfy himself that the purposes of the scheme are being achieved.

2.—(1) Until 31st March 1990, the Council shall, without payment and for the purposes of any scheme made under paragraph 1 and for the time being in force, be entitled to arrange for the nomination of tenants to such proportion of vacancies in the dwellings transferred by this order to a transferee authority, being a London borough council, being not less than 20 per centum nor more than 50 per centum of such vacancies, as may be determined by the Council in accordance with the provisions of the said scheme.

(2) Until 31st March 1985, the Council shall, without payment and for the purposes of any scheme made under paragraph 1 and for the time being in force, be entitled to arrange for the nomination of tenants to such proportion of vacancies in the dwellings transferred by this order to a transferee authority, being a district council, being not less than 15 per centum nor more than 50 per centum of such vacancies, as may be determined by the Council in accordance with the provisions of the said scheme.

(3) From 1st April 1985 until 31st March 1990, the Council shall, without payment and for the purposes of any scheme made under paragraph 1 and for the time being in force, be entitled to arrange for the nomination of tenants to such proportion of vacancies in the dwellings transferred by this order to a transferee authority, being a district council, being not less than 15 per centum nor more than 25 per centum of such vacancies, as may be determined by the Council in accordance with the provisions of the said scheme.

(4) A transferee authority shall ensure that the vacancies which it makes available to the Council for the purposes of this paragraph shall, so far as is practicable, be in dwellings which, in size, type, age and quality are, taken as a whole, representative of the dwellings, transferred by this order to that transferee authority, in which vacancies occur.

3.—(1) In this Schedule "vacancy" in relation to any dwelling transferred by this order means—

(*a*) a vacancy existing at the date of transfer in a dwelling which is available for occupation at that date;
(*b*) a vacancy existing at the date of transfer in a dwelling which becomes available for occupation after that date;
(*c*) a vacancy (other than a vacancy specified in sub-paragraph (2)) which arises after the date of transfer in a dwelling which is available for occupation at the date when that vacancy arises; and
(*d*) a vacancy (other than a vacancy specified in sub-paragraph (2)) which arises after the date of transfer in a dwelling which becomes available for occupation after the date on which that vacancy arises.

(2) The vacancies excluded from sub-paragraph (1)(*c*) and (*d*) are vacancies arising directly or indirectly in consequence of the tenant of the dwelling in question—

(*a*) moving, or being transferred, to another dwelling owned by the transferee authority;
(*b*) moving to a dwelling owned by another local authority pursuant to an arrangement, made between the transferee authority and that other local authority, whereby a reciprocal vacancy is to be made available to that other local authority by the transferee authority; or
(*c*) being re-housed by a housing association pursuant to a right of nomination enjoyed by the transferee authority.

4. Nothing in this Schedule shall affect any agreement as to nomination made or to be made between the council and any local authority.

Article 18

SCHEDULE 2

CARRYING OUT OF WORKS OF REHABILITATION ETC. TO TRANSFERRED PROPERTY

PART I

PROVISIONS APPLYING TO A TRANSFEREE AUTHORITY WHICH IS A LONDON BOROUGH

1. The Council shall, from time to time and in consultation with any body appearing to the Council to represent transferee authorities and with individual transferee authorities, make and implement programmes for—

(*a*) the modernisation, rehabilitation and improvement of transferred property; and

(*b*) the carrying out of works to such property arising from major technical causes;

and without prejudice to article 6(3) such programmes may provide for the assignment by transferee authorities to the Council of the benefit of any rights under any contracts, deeds, bonds, agreements or other instruments and any cause of action or proceeding transferred to a transferee authority by this order.

2. The Council shall design and carry out the works contained in any programme made under paragraph 1 provided that the said works may be designed and carried out by the transferee authority, in accordance with the provisions of the programme, with the consent of the Council where it appears to the Council that this is expedient.

3.—(1) Subject to sub-paragraph (5), the Council shall be liable for the net cost for any year of any works carried out in accordance with a programme made under paragraph 1 and, where any such works are carried out by a transferee authority with the consent of the Council pursuant to paragraph 2, the Council shall discharge their liability by making such payments and at such times as shall be agreed with the transferee authority. Provided that, where monies are recovered by any transferee authority from a contractor or any other person in respect of works arising from major technical causes, such an authority shall remit them to the Council pursuant to article 6(1).

(2) Where a transferee authority takes steps to recover monies from contractors and others in respect of works arising from major technical causes, it may require the Council to reimburse (whether by means of a deduction from monies so recovered and remitted to the Council pursuant to article 6(1) or otherwise) its proper legal costs and disbursements expended thereon and not otherwise recovered by the transferee authority.

(3) Where the Council incurs any loan debt in connection with the carrying out of any works under this paragraph, the relevant transferee authority shall be liable for all repayments of principal, interest and management expenses relating to that loan debt and shall discharge such liability by making to the Council such payments and at such times as shall be agreed with the Council.

(4) (*a*) In this paragraph "net cost" means an amount comprising the loan charges either payable under sub-paragraph (3) or directly incurred by a transferee authority in respect of works carried out under this paragraph together with agreed costs relating to the disturbance or removal of tenants less any grants or subsidies receivable by that authority and any sums receivable from the Council pursuant to Schedule 3 to this order in respect of such works and less any additional rental income which, as determined by the Council, would be receivable as a consequence of the completion of the said works.

(*b*) For the purposes of this sub-paragraph the additional rental income shall be revised annually in the manner specified in the definition of "rents" in paragraph 3(2) of Part I of Schedule 4 to this order.

(5) The Council shall not be liable to meet any part of the cost of works carried out under this Schedule in respect of property transferred to a transferee authority if the sum resulting, for that authority, from the calculation set out in paragraph 3 of Part I of Schedule 4 to this order is a negative amount of greater magnitude than the net cost of works carried out under this paragraph in respect of such property and if the said sum resulting from the said calculation is a negative amount, such sum shall be deducted from the net cost of works carried out under this paragraph for the purpose of determining the amount payable by the Council under this Schedule.

PART II

PROVISIONS APPLYING TO A TRANSFEREE AUTHORITY WHICH IS A DISTRICT COUNCIL

1. The Council may, from time to time in consultation with transferee authorities, make and implement programmes for the carrying out of what the parties agree are works arising from major technical causes in respect of the transferred property and without prejudice to article 6(3) such programmes may provide for the assignment by transferee authorities to the Council of the benefit of any rights under any contracts, deeds, bonds, agreements or other instruments and any cause of action or proceeding transferred to a transferee authority by this order.

2. The Council shall design and carry out the works contained in any programme made under paragraph 1 provided that the said works may be designed and carried out by the transferee authority, in accordance with the provisions of the programme, with the consent of the Council where it appears to the Council that this is expedient.

3.—(1) The Council shall until 31st March 1985 be liable for the net cost for any year of any works carried out in accordance with a programme made under paragraph 1 and, where any such works are carried out by a transferee authority with the consent of the Council pursuant to paragraph 2, the Council shall discharge their liability by making such payments and at such times as shall be agreed with the transferee authority.

(2) Where monies are recovered by any transferee authority from a contractor or any other person in respect of the matters giving rise to the need for the said programme, the authority shall remit them to the Council under article 6(1), but may require the Council to reimburse (whether by means of a deduction from monies so recovered and remitted to the Council under article 6(1) or otherwise) its proper legal costs and disbursements expended thereon and not otherwise recovered.

(3) Where the Council incurs any loan debt in connection with the carrying out of any works under this paragraph, the relevant transferee authority shall be liable for all repayments of principal, interest and management expenses relating to that loan debt and shall discharge such liability by making to the Council such payments and at such times as shall be agreed with the Council.

(4) In this paragraph "net cost" means an amount comprising loan charges either payable under sub-paragraph (3) or directly incurred by a transferee authority in respect of works carried out under this paragraph together with agreed costs relating to the disturbance or removal of tenants less any grants or subsidies receivable by that authority and any sums receivable from the Council pursuant to Schedule 3 to this order in respect of such works.

Article 22

SCHEDULE 3

HOUSING GRANTS AND SUBSIDIES PAYABLE IN RESPECT OF TRANSFERRED PROPERTY

1. Nothing in article 4 shall affect grant or subsidy receivable by the Council in respect of housing accommodation transferred by this order.

2.—(1) Where there is, in respect of transferred property, loan debt outstanding and incurred before 1st April 1972, and where, for the purpose of determining any element of housing subsidy under the Housing Rents and Subsidies Act 1975(**a**), except the high costs element, payable to the Council in any year, the said property is treated by the Secretary of State as if it had not been transferred by this order, then the Council shall pay to the appropriate transferee authority in respect of the year in question a sum which bears the same relationship to the annual loan charges payable in that year on the said outstanding loan debt as that part of the total annual subsidy income of the Council for that year which is, as determined under sub-paragraph (3), for the purposes of this sub-paragraph, deemed to relate to loan debt outstanding and incurred before 1st April 1972, bears to the total annual loan charges payable in the said year by the Council on its housing revenue account in respect of loan debt outstanding and incurred before 1st April 1972.

(2) Where there is, in respect of transferred property, loan debt outstanding and incurred on or after 1st April 1972, and where, for the purposes of determining any element of housing subsidy under the Housing Rents and Subsidies Act 1975, except the high costs elements payable to the Council in any year, the said property is treated by the Secretary of State as if it had not been transferred by this order, then the Council shall pay to the appropriate transferee authority in respect of the year in question a sum which bears the same relationship to the annual loan charges payable in that year on the said outstanding loan debt as that part of the total annual subsidy income of the Council for that year which is, as determined under sub-paragraph (3), for the purposes of this sub-paragraph, deemed to relate to loan debt outstanding and incurred on or after 1st April 1972, bears to the total annual loan charges payable in the said year by the Council on its housing revenue account in respect of loan debt outstanding and incurred on or after 1st April 1972.

(3) In calculating the part of the total annual subsidy income of the Council for any year for the purposes of sub-paragraphs (1) and (2) it shall be assumed—

(*a*) that the total income of the Council in that year from the elements of housing subsidy referred to in those sub-paragraphs is exclusively allocated against the loan charges incurred by the Council on its housing revenue account in that year; and

(*b*) that the relationship between the said assumed amounts of subsidy and the said loan charges is such that the same relationship applied in respect of all loan charges relating to debt outstanding and incurred before 1st April 1972 and a higher relationship applies in respect of all loan charges relating to debt outstanding and incurred on or after 1st April 1972, the said relationships being either in the ratio 1:2 or in such other ratios as may be agreed between the Council and any bodies appearing to the Council to represent the transferee authorities;

provided that in assessing for the purposes of this paragraph, the total annual subsidy income of the Council for any year, no regard shall be had to any reduction of such income resulting from the demolition or disposal—

(**a**) 1975 c. 6.

(i) by a transferee authority, of any houses on transferred property; or

(ii) by the Council, of any houses on property not so transferred.

The amount of any such reduction shall be allocated specifically to the authority whose houses have been so demolished or disposed.

(4) If, for the purpose of determining the Council's entitlement to one or more of the elements of housing subsidy (other than the high costs element), the Secretary of State ceases to treat any transferred property as if it had not been transferred, then the method of calculating the amount, if any, of the subsidy received by the council in respect of the remaining elements of housing subsidy which is payable to any transferee authority under this paragraph shall be such as may be agreed between the Council and any body appearing to the Council to represent transferee authorities.

(5) The Council shall pay to a transferee authority any improvement contributions or other exchequer subsidy, other than elements of housing subsidy received by the Council under the said Act of 1975, received by the Council in respect of the property transferred by this order to that authority in respect of any period after the relevant date in relation to that property.

(6) Payments by the Council to a transferee authority under this paragraph shall be of such amounts and at such times each year as may be agreed between the Council and the transferee authority.

3.—(1) If at any time after the coming into operation of this order in the opinion of the Council or of any transferee authority, being a London borough council, circumstances arise (other than the passing of an enactment) which significantly affect the arrangements contained in this Schedule, the Council or the authority (as the case may be) may notify the transferee authorities which are London borough councils or the Council and the other transferee authorities which are London borough councils (as the case may be) that the said arrangements should be reviewed.

(2) On the giving (or receiving) of a notification under sub-paragraph (1) the Council in consultation with any transferee authority which gave the said notification and with any body appearing to the Council to represent transferee authorities which are London borough councils shall review the said arrangements and other arrangements may be agreed or in default of agreement determined by the Secretary of State.

Article 23

SCHEDULE 4

PAYMENTS IN RESPECT OF NET REVENUE COST OF TRANSFERRED PROPERTY

PART I

PROVISIONS APPLYING TO A TRANSFEREE AUTHORITY WHICH IS A LONDON BOROUGH

1.—(1) Subject to paragraph 5, in respect of the financial year 1980/81 the Council shall pay to each transferee authority the net cost (if any) for that year in respect of the property transferred by this order to the transferee authority; provided that notwithstanding the provisions of paragraph 3(1) the net cost for the purpose of this paragraph shall be calculated also to take account of:—

(*a*) those dates not later than 31st March 1981 which may as respects property to which this order relates be the relevant date for its transfer,

(*b*) any particular circumstances affecting the housing assets and liabilities of the Council immediately before the relevant date which are agreed between the Council and any body appearing to the Council to represent transferee authorities to have a significant effect on the housing assets and liabilities of transferee authorities after the relevant date, and

(*c*) the costs agreed to have been reasonably incurred by any transferee authority arising from the initial assumption by such an authority of repair, maintenance or management of the property transferred to them by this order although no such said costs as aforesaid shall be so taken into account insofar as they may arise after a date six months following the relevant date in respect of any such property.

(2) Subject to paragraph 5, in respect of the financial year 1981/82 and each succeeding year thereafter the Council shall pay to each transferee authority the net cost (if any) in respect of the property transferred by this order to that transferee authority.

(3) If so requested by a transferee authority, the Council shall pay to that authority in any year a sum equal to the cost falling upon the rate fund of that authority of granting rent rebates under the Housing Finance Act 1972(**a**) to tenants of property transferred to that authority by this order.

2. Payments under this Schedule shall be made by the Council in such instalments and at such times each year as shall be agreed between the Council and the transferee authority; provided that sums paid by the Council to a transferee authority under paragraph 1(3) shall be fully reimbursed to the Council by the transferee authority either by means of deductions from payments made by the Council under paragraph 1(1) and (2) or, if no such payments are due from the Council, or if any such deductions are insufficient to achieve such reimbursement, by means of payments to the Council from the housing revenue account of the transferee authority.

3.—(1) In this Schedule 'net cost' for any year and in respect of any property means an amount comprising the loan charges less any grants or subsidies (other than rent rebate subsidy) attributable to such property in that year and payable to the transferee authority direct or to that authority by the Council pursuant to Schedule 3 to this order, plus the costs of management and maintenance as defined in sub-paragraph (2) less the rent as so defined; provided that in this sub-paragraph subsidies shall be calculated so as—

(**a**) 1972 c. 47.

(*a*) to take account of any change consequential upon the operation of this order in the amount of the high costs element of subsidy receivable by a transferee authority pursuant to the Housing Rents and Subsidies Act 1975; but

(*b*) to take no account of any reduction in subsidy resulting from the demolition or disposal by a transferee authority of any houses on the transferred property.

(2) In this paragraph—

"loan charges" mean the liabilities assumed by the transferee authority in respect of the year in question under article 20;

"costs of management and maintenance" means, for the financial year 1980/81, the estimated amount of those costs in respect of the transferred property as determined by the Council on the basis that the property transferred by this order had not been so transferred, but taking into account also the matters set out in paragraph 4, and, in respect of subsequent years, that amount as varied by any increase specified from time to time by the Secretary of State for the purpose of calculating the high costs element of housing subsidy under the Housing Rents and Subsidies Act 1975; and

"rents" means, for the financial year 1980/81, all the estimated income deducting subsidies (other than rent rebate subsidy) and also deducting rate fund contributions in respect of the transferred property as determined by the Council on the basis that the property transferred by this order had not been so transferred, and, in respect of subsequent years, the amount of that income as varied by any increase in rents determined from time to time by the Secretary of State for the purpose of calculating the said high costs element of housing subsidy.

4. The matters which shall be taken into account in arriving at an amount of costs of management and maintenance in paragraph 3 shall be—

(*a*) the needs of transferee authorities after 1st April 1980 for office and other accommodation ancillary to the management and maintenance of property transferred by this order and the amounts of such accommodation so transferred;

(*b*) the costs agreed to have been incurred by transferee authorities or any of them upon the operation of the provisions of Schedule 1 to this order; and

(*c*) any steps taken by the Council in conjunction with persons in their employment and affected by this order to facilitate the reduction of potential costs of repair, maintenance or management of property transferred by this order.

5.—(1) If, as a consequence of the disposal by a transferee authority of any property transferred to that authority by this order, the transferee authority is in receipt of any capital sum, that sum shall first be applied to offset the loan debt (if any) outstanding in respect of that property.

(2) Except in the case of a disposal or appropriation falling within sub-paragraph (3), where a transferee authority disposes of, or appropriates, any property transferred to that authority by this order, then an amount (provided that it is not a negative sum) representing the part of the payment to be made to that authority by the Council under this paragraph which (as determined by the Council in consultation with the said transferee authority) relates to the said property shall be deducted from the total of any amount payable to that authority under this paragraph in any period from the end of the financial year in which the sale or appropriation took place.

(3) (*a*) Where a transferee authority disposes of, or appropriates, any property transferred to that authority by this order and the disposal price or

appropriation value is below the amount of the loan debt outstanding on that property at the time of the disposal or appropriation, then, provided the amount of any residual loan charges payable in respect of the said property in any year is equal to or less than an amount which represents the part of the payment to be made to that authority by the Council under this Schedule relating to the said property and which would have been payable had the disposal or appropriation not taken place, the Council shall be liable for the said residual loan charges.

(*b*) In this paragraph "residual loan charges" means such part of loan charges (which part shall be determined by the Council in consultation with the transferee authority) payable in respect of the property in question as would remain to be met after either the application of any annual mortgage payments made to the transferee authority in respect of the property or by the application of any capital sum received by the transferee authority in respect of the property.

(4) A transferee authority shall provide the Council with sufficient details of the disposal or appropriation of any property transferred to that authority by this order to enable the adjustments described in sub-paragraphs (2) and (3) to be made.

6.—(1) If at any time after the coming into operation of this order in the opinion of the Council or of any transferee authority circumstances arise (other than the passing of an enactment) which significantly affect the terms contained in this Part of this Schedule, the Council or the authority (as the case may be) may notify the transferee authorities or the Council and the other transferee authorities (as the case may be) that the said terms should be reviewed.

(2) On the giving (or receiving) of a notification under sub-paragraph (1) the Council in consultation with any transferee authority which gave the said notification and with any body appearing to the Council to represent transferee authorities shall review the said terms and other terms may be agreed or in default of agreement determined by the Secretary of State.

7.—(1) At the expiry of a period of five years from the coming into operation of this order the Council shall, in consultation with the transferee authorities (or with any body appearing to the Council to represent those authorities), review the arrangements set out in this Part of this Schedule in the light of the need of any transferee authority, at the time of the review, to continue to receive the payments made by the Council under this Part of this Schedule or under any relevant enactment passed since the coming into operation of this order; and other arrangements may be agreed or in default of agreement settled by arbitration under article 25.

(2) At the expiry of each period of five years succeeding the period referred to in sub-paragraph (1) the Council may, and, if so requested by a transferee authority or any body appearing to the Council to represent transferee authorities, shall carry out a further review of the arrangements set out in this Part of this Schedule; and the provisions of sub-paragraph (1) shall apply in respect of a review under this sub-paragraph as they apply to the review under that sub-paragraph.

PART II

PROVISIONS APPLYING TO A TRANSFEREE AUTHORITY WHICH IS A DISTRICT COUNCIL

1. Subject to paragraphs 8 and 9, in respect of the financial year 1980/81 the Council shall pay to each transferee authority the forecast net revenue cost

(if any) for that year in respect of the property transferred by this order to the transferee authority; provided that notwithstanding the provisions of paragraph 6(1) the forecast net revenue cost shall be calculated also to take account of:—

(*a*) those dates not later than 31st March 1981 which may as respects property to which this order relates be the relevant date for its transfer;

(*b*) any particular circumstances affecting the housing assets and liabilities of the council immediately before the relevant date which are agreed between the Council and any body appearing to the Council to be representative of transferee authorities to have a significant effect on the housing assets and liabilities of transferee authorities after the relevant date; and

(*c*) the costs agreed to have been reasonably incurred by any transferee authority arising from the initial assumption by such an authority of repair, maintenance or management of the property transferred to them by virtue of this order although no such said costs as aforesaid shall be so taken into account insofar as they may arise after a date six months following the relevant date in respect of any such property.

2. Subject to paragraphs 8 and 9, in respect of each of the financial years 1981/82, 1982/83, 1983/84 and 1984/85, the Council shall pay to each transferee authority the forecast net revenue cost (if any) in respect of the property transferred by this order to that transferee authority provided that notwithstanding the provisions of paragraph 6(1) the forecast net revenue cost shall be calculated also to take account of the liabilities of the transferee authority in respect of the years concerned arising from article 20(*b*).

3. Subject to paragraphs 8 and 9, in respect of the financial year 1985/86 the Council shall pay to any transferee authority such fraction or percentage of the forecast net revenue cost (if any) as may be agreed between the Council and any body appearing to the Council to be representative of the transferee authorities in respect of such property as may be transferred to that authority by this order on a relevant date later than 1st April 1980; provided that notwithstanding the provisions of the said paragraph 6(1) the forecast net revenue cost shall be calculated also to take account of the liabilities of the transferee authority in respect of the periods concerned arising from article 20(*b*).

4. In addition to the payments referred to in paragraphs 1 to 3, and if so requested by a transferee authority, the Council shall pay to that authority in any year a sum equal to the cost falling upon the rate fund of that authority of granting rent rebates under the Housing Finance Act 1972 to tenants of property transferred to that authority by virtue of this order.

5. Subject to paragraph 11, from 1st April 1985, and if so requested by a transferee authority, the Council shall pay to such an authority such sums as may be agreed between that authority and the Council as respects matters to which paragraph 7(*a*) relates.

6.—(1) For the purpose of this Schedule, 'forecast net revenue cost' in respect of the transferred property means an amount (if any) to be determined by the Council in consultation with the appropriate transferee authority, which is derived from deducting the rents and subsidies (less the modified rent rebate subsidy) attributable to that property in the financial year 1980/81, from the loan charges and the costs of management and maintenance payable in respect of that property in the said period; provided that in this sub-paragraph subsidies shall be calculated so as:—

(*a*) to take account of any change consequential upon the operation of this order in the amount of the high costs element of subsidy

receivable by a transferee authority pursuant to the Housing Rents and Subsidies Act 1975; but

(*b*) to take no account of any reduction in subsidy resulting from the demolition or disposal by a transferee authority of any houses on the transferred property.

(2) In this paragraph—

"loan charges" means the liabilities assumed by the transferee authority in respect of the financial year 1980/81 under paragraphs (*a*) and (*b*) of article 20 together with the liabilities in respect of the loan debt met directly by the Council in respect of the period (if any) between 1st April 1980 and the relevant dates; and

"costs of management and maintenance" means the estimated amount of those costs in the financial year 1980/81 as determined by the Council on the basis that the property transferred by this order had not been so transferred but taking into account also the matters set out in paragraph 7; and

"rents" means all the estimated income, deducting subsidies (other than the modified rent rebate subsidy) and also deducting rate fund contributions, in respect of the transferred property as determined by the Council on the basis that the property transferred by this order had not been so transferred.

7. The matters which shall be taken into account in arriving at an amount of costs of management and maintenance in paragraph 6 shall be—

(*a*) any arrangements which may be made between the Council and any transferee authority or a body appearing to represent transferee authorities relating to the expenditure arising from the employment by a transferee authority of persons previously in the employment of the Council; and

(*b*) any steps taken by the Council in conjunction with persons in their employment who are affected by this order to facilitate the reduction of potential costs of repair maintenance or management of property transferred by virtue of this order.

8. Where, for any transferee authority, the sum resulting from the calculation specified in paragraphs 1, 2, 3 and 6 is a negative amount the Council shall not be liable to make any payment to that authority under paragraphs 1, 2 and 3 but the authority shall pay to the Council in respect of each of the periods specified in paragraphs 1, 2 and 3 the amount of the sums represented in the form of the negative amount so calculated in relation to those periods in those paragraphs.

9.—(1) If, as a consequence of the disposal by a transferee authority of any property transferred to that authority by this order, the transferee authority is in receipt of any capital sum, that sum shall be retained by the transferee authority; provided that the sum shall first be applied to offset the loan debt (if any) outstanding in respect of that property.

(2) In the case of a transferee authority to whom payments are made by the Council under paragraphs 1, 2 and 3, but except in the case of a disposal or appropriation falling with sub-paragraph (3), where the transferee authority in question disposes of, or appropriates, any transferred property, then an amount (provided it is not a negative sum) representing the part of the payment to be made to that authority by the Council under paragraph 1, 2 or 3 which relates to the said property shall be deducted from the total amount payable to that authority under the said paragraphs in any period from the end of the financial year in which the sale or appropriation took place.

(3) (*a*) Where a transferee authority, to whom payments are made by the Council under paragraphs 1, 2 or 3, disposes of, or appropriates, any transferred property and the disposal price or appropriation value is less than

the loan debt outstanding on that property at the time of the disposal or appropriation, then, provided the residual loan charges payable in respect of the said property in any of the periods specified in paragraphs 1, 2 or 3 are equal to or less than an amount representing the part of the payment to be made to that authority by the Council under this Schedule which, as determined by the Council, relates to the said property and which would have been payable had the disposal or appropriation not taken place, the said residual loan charges shall replace the said amount in the payment to be made to that authority under this Schedule.

(*b*) In this sub-paragraph and in sub-paragraph (5), "residual loan charges" means such part of the loan charges (which part shall be determined by the Council) payable in respect of the property in question as would remain to be met after either the application of any annual mortgage payments made to the transferee authority in respect of the property or by the application of any capital sum received by the transferee authority in respect of the property.

(4) In the case of the transferee authority by whom payments are made to the Council under paragraph 8 but except in the case of a disposal or appropriation falling within sub-paragraph (5), where the transferee authority in question disposes of, or appropriates any transferred property then any amount (provided it is not a negative sum) which, as determined by the Council, had been taken into account in respect of that property in calculating the forecast net revenue cost for the purpose of this Schedule shall be added to the total of any amount payable by that authority in any of the periods specified in paragraph 3, commencing after the end of the financial year in which the disposal or appropriation takes place.

(5) Where a transferee authority, by whom payments are made to the Council under paragraph 8, disposes of, or appropriates, any transferred property and the disposal price or appropriation value is below the amount of the loan debt outstanding on that property at the time of the disposal or appropriation, then, provided the amount of any residual loan charges payable in respect of the said property in any of the periods specified in paragraph 8 is equal to or less than the amount which, as determined by the Council, had been taken into account in respect of that property in calculating the forecast net revenue cost for the purposes of this Schedule, the said residual charges shall replace the said amount taken into account in any payment by that authority under this Schedule.

(6) A transferee authority shall provide the Council with sufficient details of the disposal or appropriation of any property transferred to that authority by this order to enable the adjustments described in sub-paragraphs (2), (3), (4) and (5) to be made.

10. Payments under this Schedule shall be made by or to the Council in such instalments and at times in each year as shall be agreed between the Council and the transferee authority; provided that sums paid by the Council to a transferee authority under paragraph 4 shall be fully reimbursed to the Council by the transferee authority either by means of deductions from payments made by the Council under paragraphs 1, 2 and 3, or, if no payments are due from the Council under paragraphs 1, 2 and 3, or if any such deductions are insufficient to achieve such reimbursement, by means of payments to the Council from the housing revenue account of the transferee authority.

11. Not later than 31st March 1985 the Council shall, in consultation with the transferee authorities (or with any body appearing to the Council to represent those authorities), review the arrangements set out in this Part of this Schedule for the purpose of considering the need of any transferee authority to receive, or to continue to receive, payments from the Council in respect of the transferred property; and where it is agreed between the Council

and any transferee authority in consequence of the said review that the financial needs in respect of the transferred property are such that payments should be made to that authority, the Council shall make such payments for such a period and on such terms and conditions as may be agreed.

Michael R. D. Heseltine,
6th March 1980. Secretary of State for the Environment.

EXPLANATORY NOTE

(*This Note is not part of the Order.*)

This Order provides for an agreed transfer of housing land and accommodation from the Greater London Council to certain London borough councils and district councils in whose respective areas the land and accommodation is situated. It includes the agreed terms on which the transfer is to take place and also certain consequential and supplemental provisions.