STATUTORY INSTRUMENTS

1975 No. 659 (S. 92)

LOCAL GOVERNMENT, SCOTLAND

The Local Authorities (Property etc.) (Scotland) Order 1975

Made - - - -	18*th April* 1975
Laid before Parliament	29*th April* 1975
Coming into Operation	1*st May* 1975

In exercise of the powers conferred on me by section 222(1), (2) and (4) of the Local Government (Scotland) Act 1973(**a**) and of all other powers enabling me in that behalf, I hereby make the following order:—

Citation and commencement

1. This order may be cited as the Local Authorities (Property etc.) (Scotland) Order 1975 and shall come into operation on 1st May 1975.

Interpretation

2.—(1) The Interpretation Act 1889(**b**) shall apply for the interpretation of this order as it applies for the interpretation of an Act of Parliament.

(2) In this order—

"the Act" means the Local Government (Scotland) Act 1973;

"local authority" means in respect of the period up to and including 15th May 1975 any county, burgh or old district council, any joint board or joint committee, river purification board or regional water board or an association of local authorities the constituent members of which include any such local authority; and in respect of any period from and including 16th May 1975 any regional, islands or district council, any river purification board or any association of local authorities the constituent members of which include any such local authority; and the expressions "existing local authority" and "new local authority" shall be interpreted accordingly;

"property" means any property, heritable or moveable and all interests rights and liabilities in or relating to property, and includes any property held for historic or ceremonial purposes but excludes any security or balance in a fund vested in an existing local authority and any property held on trust immediately before 16th May 1975 by an existing local authority or a councillor and a specified officer of an existing local authority;

"land" includes land covered with water and any interest right or servitude in or over land;

(a) 1973 c. 65. (b) 1889 c. 63.

"old district council" means a district council established under section 39 of the Local Government (Scotland) Act 1947**(a)**;

"property commission" means the property commission set up by the Secretary of State under section 224 of the Act.

Other express provision

3. This order shall have effect subject to the express provision of—

(*a*) any other order made (whether before or after this order) under section 222 of the Act;

(*b*) any regulations made under section 7 or 8 of the Superannuation Act 1972**(b)**; or

(*c*) section 27, 39 or 61(1) of the National Health Service (Scotland) Act 1972**(c)** or any order made under those sections.

Transfer by function, etc.

4. Without prejudice to any agreement under article 5 hereof—

(*a*) (i) property vested in any existing local authority shall be transferred to and vest in such new local authority as shall, as from 16th May 1975, have the duty of discharging the function or functions for which the said property was wholly or mainly used or to which a statutory use had been assigned on 15th May 1975,

(ii) where property was not wholly or mainly used on 15th May 1975 for a particular function or was property used or assigned for use for functions to be discharged concurrently such property vested in a county council shall, subject to sub-paragraph (*c*), be transferred to and vest in the appropriate regional or islands council and such property vested in a burgh, or old district council shall, subject to sub-paragraph (*c*), be transferred to and vest in the islands or district council within whose area the property is situated,

(iii) where no statutory purpose or use has been assigned by an existing local authority to any property, including buildings in course of construction or adaptation, the question as to the function for which that property is deemed to be held shall be determined before 16th May 1975 by the existing local authority in whom the property is vested, or as from 16th May 1975 by the appropriate successor authority as described in sub-paragraph (ii) above. If notice is subsequently given by any authority that they are dissatisfied with any such determination the question shall be determined by agreement between the authorities then concerned or failing such agreement by the property commission.

(*b*) Any dispute as to the function for which the property referred to in sub-paragraph (*a*)(i) or (ii) is used or assigned for use shall be determined by the property commission.

(*c*) Any property for which the transfer and vesting arrangements have not at 16th May 1975 been concluded in terms of sub-paragraph (*a*) or of article 5 shall, pending the conclusion of such arrangements, be deemed

(a) 1947 c. 43. **(b)** 1972 c. 11. **(c)** 1972 c. 58.

on that date to have been transferred to and vested in the appropriate new local authority which, in the case of a county council, shall be the appropriate regional or islands council and in the case of a burgh or old district council shall be the islands or district council within whose area the property is situated.

Transfer by agreement

5. Notwithstanding the provisions of article 4, property vested in any existing local authority may as from 16th May 1975 be transferred to and vest in such one or more of the new local authorities as may be agreed between or among such authorities.

Contracts, bonds, etc.

6.—(1) All liabilities attaching to any existing local authority in respect of any property transferred by this order shall by virtue of this order be transferred to and attach to the authority to whom such property is transferred.

(2) All contracts, deeds, bonds, agreements and other instruments subsisting in favour of, or against, and all notices in force which were given (or have effect as if they had been given) by, or to, any existing local authority in respect of any property shall as from 16th May 1975 be of full force and effect in favour of, or against, such one or more of the new local authorities in whom the property is vested by virtue of the Act and this order.

(3) Any action or proceeding or any cause of action or proceeding, pending or existing at 15th May 1975 by, or against, any existing local authority in respect of any property shall not be prejudicially affected by reason of the Act and may be continued, prosecuted and enforced by, or against, such new local authority in whom the property or land is vested by virtue of the Act and this order.

Transfer of residual property, etc.

7.—(1) All property and rights and liabilities relative thereto belonging to an existing local authority and not otherwise covered under this order shall on 16th May 1975 in the case of a county council transfer to and vest in the appropriate regional council or islands council and in the case of a burgh or old district council transfer to and vest in the islands or district council within whose area such property is situated.

(2) Any power to appoint any person to any body belonging to a transferor authority shall transfer to the transferee authority.

User rights

8.—(1) Where accommodation in any property transferred to and vested in any local authority by virtue of this order is used (or in the case of accommodation not yet in occupation proposed to be used) otherwise than temporarily for the purpose of any functions which, on and after that date, are not dischargeable by the local authority to whom the property is transferred, the local authority discharging those functions in the area served by the accommodation, or as the case may be, the part thereof shall be entitled to the use of such accommodation,

whether for the purposes of such functions or for the purposes of any other functions dischargeable by them.

(2) Where by paragraph (1) any right to the use of any accommodation is ensured for any local authority other than the local authority in whom the accommodation is vested on or after 16th March 1975, the fittings, furniture, equipment and stores in such accommodation which have been provided exclusively for the purposes of the functions first described in the said paragraph shall, except in so far as the first mentioned local authority shall otherwise agree be transferred to and vest in such local authority.

(3) The use of any property by virtue of this article shall be for such period and on such terms as may be agreed between the local authorities concerned failing which agreement as determined by the property commission.

Disposal of property

9. All property other than property formerly held on the common good of a burgh which under the terms of this order is transferred to or vested in any transferee authority and is not required by that authority shall not be disposed of—

(*a*) before 16th May 1977 without first being offered free of financial consideration to any local authority carrying out functions within the area of the district in which the property is situated; and

(*b*) before 16th May 1980 without that transferee authority first intimating to any local authority carrying out functions within the area of the district in which the property is situated or to any other local authority which has or has had user rights in that property their intention to dispose of the property.

Common Good Property

10.—(1) All property held as part of the common good of a burgh on 15th May 1975 shall on 16th May 1975 be transferred to and vest in the islands or the district council within whose boundaries the burgh is situated and the authority to whom the common good property is transferred other than the district councils of Aberdeen, Dundee, Edinburgh or Glasgow, shall in administering that property have regard to the interests of the inhabitants of the area to which the common good formerly related.

(2) The district councils of Aberdeen, Dundee, Edinburgh and Glasgow shall, in administering the property transferred to them by virtue of this article, have regard to all the inhabitants of their district.

Byelaws

11.—(1) Any byelaws in force for the regulation of any property transferred by the preceding articles of this order shall have effect as if they had been made by the local authority to whom such property is transferred.

(2) Any provision of any local Act or of any order made under or confirmed by any Act which applies to any property transferred by the preceding articles of this order shall have effect with the substitution for any references to (or having effect as references to) the transferor authority of references to the transferee authority.

Vehicle licences

12. Any excise licence, operators' licence, public service vehicle licence, road service licence, plating certificate or other document issued in respect of any vehicle transferred by the preceding articles of this order shall have effect as if it had been issued to the local authority to whom such vehicle is transferred, and any reference to the local authority from whom the vehicle is transferred in any such licence or certificate or in any registration book or other document issued in respect of such vehicle shall have effect as a reference to the local authority to whom the vehicle is transferred.

Property held under burgh charters

13. Any rights or titles to property other than common good property granted by a burgh charter shall, unless otherwise transferred by function or by agreement, transfer to the islands or district council within whose boundaries the burgh is situated.

Disputes

14.—(1) Any dispute as to the interpretation of this order may be referred to the property commission for decision.

(2) The procedure for considering disputes referred to them shall be such as the property commission may determine and shall be set out in a memorandum to be prepared by them.

William Ross,
One of Her Majesty's Principal
Secretaries of State.

St. Andrew's House,
Edinburgh.

18th April 1975.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order makes arrangements for transfer on 16th May 1975 by function, by agreement, or otherwise of property from existing local authorities to new local authorities.

It also arranges for the transfer of common good property and sets up machinery for resolving disputes.

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