STATUTORY INSTRUMENTS

1971 No. 229

LONDON GOVERNMENT

The London Authorities (Parks and Open Spaces) (Staff) Order 1971

Made - - - -	11*th February* 1971
Laid before Parliament	19*th February* 1971
Coming into Operation	1*st April* 1971

The Secretary of State for the Environment, in exercise of his powers under sections 84 and 85 of the London Government Act 1963(**a**) and of all other powers enabling him in that behalf, hereby makes the following order:—

Title, commencement and interpretation

1. This order may be cited as the London Authorities (Parks and Open Spaces) (Staff) Order 1971, and shall come into operation on 1st April 1971.

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—

" officer " includes the holder of any place, situation or employment;

" Parks order " means the London Authorities (Parks and Open Spaces) Order 1971(**c**);

" transferred park " means a park or open space transferred by article 4 of the Parks order; and

" transferee authority " has the same meaning as in the Parks order.

Transfer of staff

3.—(1) Any officer of the Greater London Council who is employed wholly or mainly in or in connection with a park or parks transferred to a transferee authority shall be transferred to the employment of that transferee authority.

(2) (*a*) Where, immediately before 1st April 1971, any officer has not taken up the duties of his employment he shall be deemed, in the application of paragraph (1), to be discharging such duties, and to be employed in the transferred park in which he would be employed if he had taken up such duties.

(*b*) Where any officer is, immediately before 1st April 1971, absent from his normal duties for the purpose of undergoing training, paragraph (1) shall apply—

(i) if it was part of the arrangements under which he is so absent that at the completion of such training he should be employed in a place, situation or employment different from the place, situation or employ-

(**a**) 1963 c. 33. (**b**) 1889 c. 63. (**c**) S.I. 1971/228 (1971 I, p. 673).

ment which he occupied prior to the commencement of the training, as if he was, immediately before 1st April 1971, occupying such different place, situation or employment;

(ii) otherwise, as if he was, immediately before 1st April 1971, occupying the place, situation or employment which he occupied immediately prior to the commencement of such training.

(*c*) Where any officer is, immediately before 1st April 1971, absent from his normal duties otherwise than for the purpose of undergoing training he shall be deemed, in the application of paragraph (1), to be discharging such duties, and to be discharging them in the transferred park in which he normally discharges them.

(3) (*a*) Any question whether an officer is employed in the manner described in paragraph (1) shall be determined by a tribunal established under section 12 of the Industrial Training Act 1964(**a**). References to such tribunal may be made as soon as may be and in any case not later than 30th April 1971.

(*b*) Where any question that an officer is not, or is, employed in the manner described in paragraph (1) is outstanding on 1st April 1971 the officer shall not be transferred until the expiration of the second week following that in which the decision of the tribunal is notified.

Officers appointed before 1st April 1971

4. Where a transferee authority, before 1st April 1971, with the consent of the Greater London Council, appoint to hold any place, situation or employment before or as from that day any person (hereinafter referred to as "the officer") who, but for that appointment, would fall to be transferred under article 3(1), the officer in that appointment shall be deemed to have been transferred by article 3(1).

Saving for certain staff

5. Subject to article 4, nothing in article 3 applies—

(*a*) to any person who will, by virtue of any agreement entered into between him and any authority before 1st April 1971, enter into the employment of that authority on that date; or

(*b*) to any person as regards any employment which is to be terminated on 31st March 1971.

Secondary transfers

6. Any officer transferred by article 3(1) to a transferee authority may, before 1st July 1971, be transferred by the said authority with the agreement of any other such authority and of the officer to the employment of that authority, and this order shall continue to apply to him.

Protection of staff

7.—(1)(*a*) Every officer transferred (or deemed to have been transferred) by article 3(1) to the employment of a transferee authority shall, so long as he continues in that employment by virtue of the transfer or appointment and until he is served with a statement in writing of new terms and conditions of

(**a**) 1964 c. 16.

employment, enjoy terms and conditions of employment not less favourable than those he enjoyed immediately before 1st April 1971. The said new terms and conditions shall be such that—

(i) so long as the officer is engaged in duties reasonably comparable to those in which he was engaged immediately before 1st April 1971, the scale of his salary or remuneration, and

(ii) the other terms and conditions of his employment,

are not less favourable than those he enjoyed immediately before 1st April 1971, and any question whether duties are reasonably comparable as aforesaid shall be determined by a tribunal established under section 12 of the Industrial Training Act 1964. The statement of new terms and conditions shall contain information that any question shall be so determined and as to the person and address to whom any question should be referred.

(*b*) A statement of new terms and conditions of employment shall not be served in respect of any officer in relation to whom a question has been referred under article 3(3)(*a*) until the decision of the tribunal has been notified.

(*c*) If after service of a statement of new terms and conditions of employment upon him a question is referred in respect of an officer under article 3(3)(*a*), the statement shall cease to have effect, sub-paragraph (*a*) of this paragraph shall have effect as if the statement had not been served, and no new statement shall be served until the decision on the question has been notified.

(2) A written statement given in accordance with section 4(1) of the Contracts of Employment Act 1963(**a**) shall not be regarded as a statement of new terms and conditions of employment for the purposes of paragraph (1) unless the statement so indicates.

Saving for dispensations

8. Any dispensation from the requirements of any regulation granted to the Greater London Council shall have effect, in relation to any officer transferred (or deemed to have been transferred) by article 3(1), as if it had been granted to the authority to whose employment he has been transferred (or is deemed to have been transferred).

Saving for extensions of service

9. Any extension of service under section 7(1) of the Local Government Superannuation Act 1937(**b**) effective on 1st April 1971 in relation to an officer transferred (or deemed to have been transferred) by article 3(1) shall continue to have effect as if it had been made by the authority to whose employment he has been transferred (or is deemed to have been transferred).

Appointment of assessor

10. On any reference under article 3(3)(*a*) or 7 the tribunal may, if they think fit, appoint a person having special knowledge or experience in relation to the subject matter of the reference to sit with them as assessor.

(a) 1963 c. 49. (b) 1937 c. 68.

Superannuation

11.—(1) Where an officer who, immediately before his transfer (or deemed transfer) to an authority by article 3(1)—

(*a*) was subject to an election in consequence of which he did not participate in the benefits of the superannuation fund maintained by the Greater London Council under Part I of the Local Government Superannuation Act 1937 ; and

(*b*) had an expectation of a gratuity payable according to years of service,

that election shall remain in effect and such a gratuity shall, subject to terms and conditions which are not less beneficial, be payable by that authority in respect of his previous service and of any service rendered to that authority.

(2) Section 35 of the Local Government Superannuation Act 1937 shall apply to an expectation under this article as it applies to a right under that Act.

Protection of housing accommodation

12. Where, immediately before 1st April 1971, an officer of the Greater London Council occupied a dwelling (whether as a tenant or otherwise) provided by that Council in connection with, or as a term of, his employment and—

(*a*) he is transferred (or deemed to have been transferred) by this order but the dwelling is not transferred by the Parks order ; or

(*b*) he is so transferred (or deemed to have been transferred) to any authority but the dwelling is transferred by the Parks order to another authority ; or

(*c*) he is not so transferred (or deemed to have been transferred) but the dwelling is transferred by the Parks order,

nothing in this order shall prejudice that occupation and for the purposes of that occupation the authority in whom the dwelling is vested shall permit the authority by whom the officer is employed to deal with the dwelling as if it were vested in that authority, and that authority shall make any necessary payment to the authority in whom the dwelling is vested to take account of the occupation of the dwelling by the officer.

Peter Walker,

11th February 1971. Secretary of State for the Environment.

EXPLANATORY NOTE

(This Note is not part of the Order.)

The London Authorities (Parks and Open Spaces) Order 1971 redistributes the ownership and management of certain parks and open spaces vested in the Greater London Council between local authorities in and near Greater London. This Order makes consequential provision as to the transfer and protection of staff.