STATUTORY INSTRUMENTS

1972 No. 172

LONDON GOVERNMENT

The London Authorities (Transfer of Housing Estates etc.) (No. 2) Order 1972

Made - - - -	10*th February* 1972
Laid before Parliament	18*th February* 1972
Coming into Operation	13*th March* 1972

Whereas the Greater London Council and the council of the London borough of Islington 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 housing accommodation for the time being vested in the Greater London Council;

And whereas the said council has agreed the terms of such transfer;

And whereas the Secretary of State is required by the said section 23(3) to give effect to those terms;

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 for the Environment, in exercise of his powers under sections 23(3), 84 and 85 of the London Government Act 1963 and 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 (Transfer of Housing Estates etc.) (No. 2) Order 1972, and shall come into operation on 13th March 1972.

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 deposited Schedule" means the Schedule "Properties transferred by article 3 of the London Authorities (Transfer of Housing Estates etc.) (No. 2) Order 1972" prepared in duplicate and signed by an Assistant Secretary in the Department of the Environment and as to which further provision is made in article 3(2);

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

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

"transferee authority", in relation to housing accommodation transferred by article 3, means the council of the London borough of Islington.

(a) 1963 c. 33. (b) 1889 c. 63.

(3) In the articles of this order, unless the context otherwise requires, any reference to housing accommodation shall include—

(*a*) a reference to garages, parking spaces and estate amenities; and

(*b*) a reference to shops where any such shop gives such access to a dwelling transferred by article 3 as to render the said shop and dwelling suitable for occupation by a single occupier;

and references to an area of housing accommodation shall be construed accordingly.

(4) In this order, unless the context otherwise requires, references to any enactment shall be construed as references to that enactment as amended, extended or applied by or under any other enactment or by this order.

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

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

Transfer of property

3.—(1) On 1st April 1972 any property described in the deposited Schedule and all liabilities (other than those liabilities described in article 13(3) of and Part III of Schedule 1 to this order) attaching to the Greater London Council in respect of any such property shall by virtue of this order be transferred to and vest in or attach to the transferee authority, and—

(*a*) 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 Greater London Council in respect of such property and liabilities shall be of full force and effect in favour of, or against, the transferee authority; and

(*b*) any action or proceeding or any cause of action or proceeding, pending or existing at 1st April 1972, by, or against, the Greater London 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 transferee authority.

(2) One duplicate of the deposited Schedule is deposited in the offices of the Secretary of State and the other in the offices of the Greater London Council. Copies of the deposited Schedule have been deposited with the transferee authority and shall be open to inspection at all reasonable times.

(3) Nothing in paragraph (1) shall affect any grant or subsidy receivable by the Greater London Council in respect of housing accommodation transferred by that paragraph.

4. Any property or liability transferred by article 3 to the transferee authority shall be held or discharged by them in respect of their area.

5. Any byelaws in force for the regulation of any property transferred by the said article shall have effect as if they had been made by the transferee authority.

6. Any legal proceedings pending at 1st April 1972 may be amended in such manner as may be necessary or proper in consequence of this order.

7. 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 a public body or on any particular revenues or fund of such body is transferred to another public body, the liability or part of the liability shall be charged indifferently on all the revenues of the public body to whom it is transferred and shall cease to be a charge on any revenues or fund of the public body from whom it is transferred.

In this article, 'public body' and 'revenues' have the same meanings as in the Local Government Act 1933**(a)**.

8. 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 is transferred to an authority other than the authority by whom such fund is maintained on and after 1st April 1972, such sums shall be paid by the first-mentioned authority to the authority by whom the fund is maintained.

Covenants affecting property

9. Unless the Greater London Council and the transferee authority otherwise agree, section 62 of the Law of Property Act 1925**(b)** (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 property transferred by article 3; and

(*b*) in respect of any property, being property vested in the Greater London 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 1st April 1972.

10.—(1) This article applies to any land within the extent of an area of housing accommodation transferred by article 3, being land in respect of which the Greater London Council have powers under section 151 of the Housing Act 1957**(c)** to enforce covenants entered into on the sale or exchange of land.

(2) In respect of any land to which this article applies—

(*a*) the Greater London Council shall consult with the transferee authority before exercising their powers under the said section 151;

(*b*) the transferee authority may require the Greater London Council to exercise the said powers in any case where such exercise is requisite in the interests of the area of housing accommodation within the extent of which the land is situated.

(3) The Greater London Council shall notify the transferee authority of any land to which this article applies and provide sufficient particulars of the covenants to which the said section 151 relates.

11. Any covenant (not being a covenant affected by article 10) which would be enforceable by the Greater London Council immediately before 1st April 1972 in respect of land within the extent of an area of housing accommodation

(a) 1933 c. 51.

(b) 1925 c. 20.

(c) 1957 c. 56.

transferred by article 3, being land which was sold or exchanged by the Greater London 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.

Rent books

12. Until a new rent book is issued by the transferee authority in respect of any housing accommodation transferred by article 3, notification to the tenant of the said accommodation of that transfer shall be deemed to be a compliance by the said authority as landlord with the requirements of section 2(1)(*a*) of the Landlord and Tenant Act 1962**(a)**.

Terms of transfer of housing accommodation

13.—(1) The transferee authority shall make payments to the Greater London Council in accordance with the provisions of Part I of Schedule 1 to this order.

(2) The Greater London Council shall pay to the transferee authority sums calculated in accordance with the provisions of Part II of the said Schedule.

(3) The Greater London Council shall discharge the liabilities described in Part III of the said Schedule.

Housing Revenue Account

14. Notwithstanding the provisions of paragraphs 1 and 2 of Schedule 5 to the Housing (Financial Provisions) Act 1958**(b)**, the Greater London Council and the transferee authority shall enter in their Housing Revenue Account any sums receivable or payable under or by virtue of this order, being sums which relate to matters which would have been so entered if this order had not been made.

Nomination rights

15.—(1) Until 1st April 1984 the Greater London Council may, without payment, nominate tenants to such proportion of the vacancies in the dwellings transferred by article 3 to the transferee authority, not exceeding 65 per centum of such vacancies, as they may determine from time to time.

(2) Without prejudice to paragraph (1), the Greater London Council may agree with the transferee authority, before 1st April 1984 in respect of nominations in excess of the said 65 per centum, or after that date as to any nominations, and any such agreement may include such terms (whether as to payment or otherwise) as may be agreed between the parties or, in default of agreement, as may be determined by the Secretary of State or by an arbitrator appointed by him.

(3) Nothing in this article shall affect any agreement as to nominations subsisting between the Greater London Council and a London borough council at the coming into operation of this order.

(a) 1962 c. 50. **(b)** 1958 c. 42.

Notices to be given

16. To enable the Greater London 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, the transferee authority shall notify the Greater London Council of any action taken in respect of any housing accommodation transferred by article 3, being such action as may affect the payment of such a grant or subsidy or the amount thereof.

17.—(1) This article applies to each financial year until 1st April 1975.

(2) Where the Greater London Council—

(*a*) have, as from 1st April or any later date in any year, applied a general increase to the rents payable on housing accommodation provided by them; or

(*b*) have resolved to apply (whether or not they have authority to apply) any such general increase as from 31st March next following, or any earlier date,

they shall give notice to that effect to the transferee authority not later than 31st December in the said year.

(3) A notice given under paragraph (2) shall include sufficient details of how the increase would have applied to the housing accommodation transferred under article 3 to the transferee authority if the transfer had not been effected.

(4) The Greater London Council shall provide to the transferee authority sufficient information from time to time of the cost and functioning of the rent rebate scheme operated by them under section 113 of the Housing Act 1957.

(5) The Greater London Council shall notify the transferee authority by 30th September in each year of their estimate of the average cost of maintenance and management of each dwelling owned by them in the year concerned, such notice including separate particulars as to flats and other housing accommodation so owned.

Transfer of staff

18.—(1) Any officer of the Greater London Council described in Part I of Schedule 2 to this order shall, on 1st April 1972, be transferred to the employment of the transferee authority.

(2) In Part I of Schedule 2, references to employment or to a place of employment are references to such employment or place on 31st March 1972.

19.—(1) The Greater London Council shall notify to the transferee authority the number of officers employed on maintenance operations within each class or described in Part II of Schedule 2 to this order who are available for transfer to the said authority.

(2) On receipt of a notification under paragraph (1), the transferee authority shall inform the Greater London Council of the number in each such class (not exceeding that notified) acceptable to the authority for such transfer.

(3) The Greater London Council shall notify the accepted number of officers of each class described as aforesaid of their intended transfer to the transferee authority.

(4) Any officer notified by the Greater London Council under the last foregoing paragraph shall, on 1st April 1972, be transferred to the employment of the transferee authority.

(5) Where, before the transfer of any officer under this article, that officer resigns from the service of the Greater London Council, that Council shall notify another officer of the like description, and paragraph (4) shall apply to such officer as it applied to the first-mentioned officer:

Provided that nothing in this paragraph shall apply where there is no such officer of the Greater London Council who would be surplus to the requirements of the Council after the date of transfer.

20.—(1) Where, immediately before 1st April 1972, any officer has not taken up the duties of his employment he shall be deemed, in the application of article 18 or 19, to be discharging such duties, and to be employed in connection with the area of housing accommodation at which he would be employed if he had taken up such duties.

(2) Where any officer is, immediately before 1st April 1972, absent from his normal duties for the purpose of undergoing training, article 18 or 19 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 employment which he occupied prior to the commencement of the training, as if he was, immediately before 1st April 1972, occupying such different place, situation or employment;

(ii) otherwise, as if he was, immediately before 1st April 1972, occupying the place, situation or employment which he occupied immediately prior to the commencement of such training.

(3) Where any officer is, immediately before 1st April 1972, absent from his normal duties otherwise than for the purpose of undergoing training he shall be deemed, in the application of article 18 or 19, to be discharging such duties, and to be discharging them in connection with the area of housing accommodation at which he normally discharges them.

21.—(1) Any question whether an officer is employed in the manner described in article 18 or 19 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 1972.

(2) Where any question that an officer is not, or is, employed in the manner described as aforesaid is outstanding on 1st April 1972 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 1972

22. Where the transferee authority, before 1st April 1972, 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 within a description of officers in Part I or II of Schedule 2 to this order, the officer in that appointment shall be deemed to have been transferred by article 18 or 19 as appropriate and, in a case falling within article 19, he shall be included within the number of officers mentioned in paragraph (2) of that article in respect of the transferee authority.

(a) 1964 c. 16.

Saving for certain staff

23. Subject to article 22 nothing in article 18 or 19 (other than article 19(5)) applies—

(*a*) to any person who will, by virtue of any agreement entered into between him and any authority before 1st April 1972, 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 1972.

Secondary transfers

24. Any officer transferred by article 18 or 19 to the transferee authority may, before 1st July 1972, 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

25.—(1) (*a*) Every officer transferred (or deemed to have been transferred) by article 18 or 19 to the employment of the 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 employment, enjoy terms and conditions of employment not less favourable than those he enjoyed immediately before 1st April 1972. 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 1972, 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 1972, 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 21(1) 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 21(1), 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

26. 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 18 or 19, as if it had been granted to the authority to whose employment he has been transferred (or is deemed to have been transferred).

(a) 1963 c. 49.

Saving for extensions of service

27. Any extension of service under section 7(1) of the Local Government Superannuation Act 1937**(a)** effective on 1st April 1972 in relation to an officer transferred (or deemed to have been transferred) by article 18 or 19 shall continue to have effect as if it had been made by the transferee authority.

Appointment of assessor

28. On any reference under article 21(1) or 25 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.

Superannuation

29.—(1) Where an officer who, immediately before his transfer (or deemed transfer) to the transferee authority by article 18 or 19 —

(*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 the transferee 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

30. Where, immediately before 1st April 1972, 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 article 3; or

(*b*) he is not so transferred (or deemed to have been transferred) but the dwelling is transferred by article 3,

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.

Payment in lieu of transfer

31. If the accepted number of officers for the purposes of article 19(2) is less than the notified number of such officers for the purposes of paragraph (1) of the said article, the Greater London Council may require payment from the transferee authority until 1st April 1974 of sums equal to not more than one half of the basic remuneration of each such officer who has not been so accepted:

Provided that nothing in this article shall apply to the remuneration of an officer for the time being required for the normal establishment of the Greater London Council.

(a) 1937 c. 68.

Arbitration

32. 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.

SCHEDULE 1 Article 13

Terms of Transfer of Housing Accommodation

Part I—Payments to the Greater London Council

1. In the year ending on 31st March 1973, the transferee authority shall pay to the Greater London Council by quarterly instalments in arrears a sum being the amount of the rents which were receivable by the latter authority on 31st March 1972 less the amount of—

(*a*) the estimated value of rent rebates in the said year based on the said rents calculated as if the housing accommodation had not been transferred; and

(*b*) the costs of management and costs of maintenance which were met in the year ending on 31st March 1972.

2. In each of the years ending on 31st March 1974, 31st March 1975 and 31st March 1976, the transferee authority shall pay to the Greater London Council by quarterly instalments in arrears a sum being the amount of the rents which would have been receivable by the latter authority on 31st March 1973, 31st March 1974 or 31st March 1975, as the case may be, if the housing accommodation had not been transferred, less the amount of—

(*a*) the estimated value of rent rebates in the said year on the basis of the said rents; and

(*b*) the costs of management and costs of maintenance which would have been met in the year ending on 31st March 1973, 31st March 1974 or 31st March 1975 as the case may be if the housing accommodation had not been transferred.

3. In each subsequent year until 31st March 1984, the transferee authority shall make the like payments to the Greater London Council as those mentioned in the last preceding paragraph with reference to the year ending on 31st March 1976.

4. In this Schedule, references to rents receivable on 31st March in a year are references to the amount of those rents on that basis for the year immediately after the said date.

5. In this Schedule, references to rents, rent rebates, costs of management and costs of maintenance are references to the rents, rebates or costs in respect of the housing accommodation transferred by article 3 to the transferee authority.

6. In the calculation of the amount of payments for the pruposes of this Schedule, no regard shall be taken of any improvement carried out wholly or partly at the expense of the transferee authority or of any disposal or demolition of housing accommodation transferred.

7. In the calculation of rent rebates for the purposes of this Schedule, no regard shall be had to any change of tenancy after 31st March 1972.

8.—(1) In the calculation of the costs of management and costs of maintenance for the purposes of this Schedule, the Greater London Council shall assess such costs in respect of separate classes, namely flats and other housing accommodation transferred by article 3, and, in the calculation of costs of maintenance, each such class shall be divided into housing accommodation first occupied before 1st January 1940 and on or after the said date.

(a) 1950 c. 27.

(2) The Treasurer of the Greater London Council shall certify—

(*a*) the average cost of management and the average cost of maintenance of each class and division of housing accommodation assessed under this paragraph; and

(*b*) the number of units transferred in each such class and division;

and the costs of management and the costs of maintenance shall be the total sum of the average costs in (*a*) multiplied by the relevant number in (*b*).

9. Where the transferee authority takes any action in respect of housing accommodation transferred by article 3 which results in the reduction or withdrawal of any grant or subsidy payable, that authority shall pay to the Greater London Council such sum (whether annually or as a single amount) as may be agreed to represent the value of the grant or subsidy which would have been paid.

10. After 31st March 1984, the transferee authority shall pay to the Greater London Council such sum as may be agreed to meet the liabilities of the latter authority with respect to the housing accommodation transferred by article 3 to the transferee authority, and any such agreement may include terms as to payment over a period and as to the allocation of any grant or subsidy receivable by the Greater London Council.

PART II—SUMS PAYABLE BY THE GREATER LONDON COUNCIL

1. By 30th September 1972 the Greater London Council shall pay to the transferee authority the two sums calculated under this Part of this Schedule.

2. The first sum is $\frac{x}{y}$ of the amount of the total balance of the Housing Repairs Account of the Greater London Council on 31st March 1972, where—

x is that number of dwellings to which the said account relates which are transferred by article 3 to the transferee authority; and

y is the total number of dwellings to which the said account relates on 31st March 1972.

3. The second sum is $\frac{p}{q}$ of the amount of the total balance of the Key Deposit Account of the Greater London Council on 31st March 1972, where—

p is that number of dwellings to which the said account relates which are transferred by article 3 to the transferee authority; and

q is the total number of dwellings to which the Housing Revenue Account of the Greater London Council relates on 31st March 1972.

PART III—LIABILITIES OF THE GREATER LONDON COUNCIL

1. The Greater London Council shall remain liable for the repayment of money borrowed by them prior to 1st April 1972 in respect of any property described in any part of the deposited Schedule.

2. The Greater London 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 property transferred under article 3, provided that such claim—

(*a*) relates to an act or breach committed before 1st April 1972; and

(*b*) is settled for an amount in excess of £100.

3. The Greater London Council shall meet the costs of works of modernisation or major improvements, being costs incurred in respect of a period before 1st April 1972.

4. The Greater London Council shall meet all costs of repair and minor improvement started or contracted for before 1st April 1972.

SCHEDULE 2

TRANSFER OF OFFICERS

PART I

Article 18

STAFF EMPLOYED IN CONNECTION WITH PROPERTY TRANSFERRED BY ARTICLE 3

Description of officers

1. The following officers, being officers employed for not less than one half of their time on duties of the specified class in connection with property transferred by article 3,—

(*a*) officers engaged on the collection of rents being—
  (i) estate officers; or
  (ii) temporary rent collectors;
(*b*) resident estate officers;
(*c*) old peoples' wardens; or
(*d*) other officers being—
  (i) resident caretakers and assistant caretakers;
  (ii) resident stoker/plant attendants;
  (iii) non-resident porters;
  (iv) temporary relief porters; or
  (v) cleaners.

2. Any other officers specified by the Greater London Council with the approval of the transferee authority as being officers affected by the transfer of property by article 3.

PART II

Article 19

MAINTENANCE STAFF

Assistant Gardener
Bricklayer
Bricklayer chargehand
Carpenter
Carpenter chargehand
Electrician
Gardener
Gardener chargehand
Labourer
Painter
Painter chargehand
Plumber
Plumber chargehand

Any other officers specified by the Greater London Council with the approval of the transferee authority as being officers affected by the transfer of property by article 3.

Peter Walker,
Secretary of State for the Environment.

10th February 1972.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order gives effect to the terms agreed between the Greater London Council and the council of the London Borough of Islington for the transfer of housing accommodation to the latter council, and makes consequential provision as to the transfer and protection of staff and other matters.

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