STATUTORY INSTRUMENTS

1972 No. 173

LONDON GOVERNMENT

The London Authorities (Transfer of Housing Estates etc.) (No. 3) 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 councils of certain London boroughs 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 councils have 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. 3) 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. 3) 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

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

"transferee authority", in relation to housing accommodation transferred by article 3, means the London borough council to whom that accommodation is so transferred.

(3) 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.

(4) 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.

(5) 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 any Part of the deposited Schedule and all liabilities (other than those liabilities described in article 13(3) of and Part III of the Schedule 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 authority named in the description of such Schedule, 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 authority named as aforesaid; 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 authority named as aforesaid.

(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 authorities 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 authority for any area shall be held or discharged by them in respect of the 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 authority to whom such property is transferred.

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 accommoda-

(**a**) 1933 c. 51. (**b**) 1925 c. 20.
(**c**) 1957 c. 56.

tion 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 a 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) A transferee authority shall make payments to the Greater London Council in accordance with the provisions of Part I of the Schedule to this order.

(2) The Greater London Council shall pay to a 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 each 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 1983 the Greater London Council may, without payment, nominate tenants to such proportion of the vacancies in the dwellings transferred by article 3 to a 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 a transferee authority, before 1st April 1983 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, a 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 1974.

(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 each 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 concerned if the transfer had not been effected.

(4) The Greater London Council shall provide to each 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 each 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.

Arbitration

18. 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 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, a 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**) 1950 c. 27.

(*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 both of the years ending on 31st March 1974 and 31st March 1975, a 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 or 31st March 1974, 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 or 31st March 1974 as the case may be if the housing accommodation had not been transferred.

3. In each subsequent year until 31st March 1983, a 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 1975.

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 purposes of this Schedule, no regard shall be taken of any improvement carried out wholly or partly at the expense of a 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.

(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 a 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 1983, a 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 each 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 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 all costs of repair and minor improvement started or contracted for before 1st April 1972.

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 councils of certain London boroughs for the transfer of housing accommodation to the latter councils.

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