STATUTORY INSTRUMENTS

1974 No. 449

LONDON GOVERNMENT

The London Highways (Transitional Provisions) Order 1974

Made - - - -	15*th March* 1974
Laid before Parliament	25*th March* 1974
Coming into Operation	1*st April* 1974

The Secretary of State for the Environment hereby makes this order in exercise of powers conferred by section 84 of the London Government Act 1963(a), as extended by section 29(6) of the Transport (London) Act 1969(b), and now vested in him(c) and of all other enabling powers:—

Commencement and citation

1. This Order shall come into operation on 1st April 1974, and may be cited as the London Highways (Transitional Provisions) Order 1974.

Interpretation

2.—(1) In this Order, unless the context otherwise requires, any expression which is defined in the Highways Act 1959(d) and is used in this Order shall have the same meaning in this Order as in that Act, and the expression "former highway authority" means, in relation to a highway to which this Order applies, the council of the London borough or, as the case may be, the Common Council of the City of London, who immediately before 1st April 1974 are the highway authority for that highway and, in relation to a proposed highway to which this Order applies, the Council of the London borough or, as the case may be, the Common Council of the City of London, who immediately before 1st April 1974 are proposing to construct that highway.

(2) Any reference in this Order to anything done or to be done by the former highway authority as, or in their capacity as, highway authority for a proposed highway to which this Order applies is a reference to anything done or to be done by them for the purposes of, or otherwise in relation to, the construction of that highway by them.

(3) Any reference in this Order to any enactment shall be construed as a reference to that enactment as amended by or under any other enactment.

(4) The Interpretation Act 1889(e) shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

(a) 1963 c. 33.
(b) 1969 c. 35.
(c) S.I. 1970/1681 (1970 III, p. 5551).
(d) 1959 c. 25.
(e) 1889 c. 63.

Application of Order

3. This Order applies to highways or proposed highways in Greater London which by virtue of section 29 of the Transport (London) Act 1969 become metropolitan roads on 1st April 1974.

Transfer of property

4.—(1) There shall be transferred to the Greater London Council by virtue of this Order on 1st April 1974 in relation to each highway or proposed highway to which this Order applies—

(*a*) in the case of a highway—

(i) the interest of the former highway authority, as such, in the highway, in so far as such interest is not vested in the Greater London Council by virtue of section 226 of the Highways Act 1959,

(ii) any land which is held by the former highway authority, as such, for the purposes of their functions in relation to the highway or which has been acquired by them as highway authority for the highway and is still required for highway purposes,

(iii) any equipment on or near the highway belonging to the former highway authority as such, including any road lighting system within the meaning of Part III of the Local Government Act 1966**(a)** and any other lighting system belonging to the former highway authority as highway authority for the highway, and

(iv) in so far as it is not comprised in (iii) above, any traffic sign, within the meaning of section 54(1) of the Road Traffic Regulation Act 1967**(b)**, situated on or near the highway and belonging to the former highway authority; and

(*b*) in the case of a proposed highway, any land which is held, or has been acquired, by the former highway authority for the purpose of constructing the highway and is still required for that purpose.

(2) All liabilities attaching to the former highway authority in respect of any property referred to in paragraph (1) above shall by virtue of this Order be transferred to and attach to the Greater London Council on 1st April 1974.

(3) All contracts, deeds, bonds, agreements and other instruments subsisting in favour of, or against, and all notices in force which were given, or which have effect as if they had been given, by or to the former highway authority in respect of any property referred to in paragraph (1) above or in respect of any liability referred to in paragraph (2) above, shall on and after 1st April 1974 be of full force and effect in favour of, or against, the Greater London Council.

(4) Any action or proceeding, or any cause of action or proceeding, pending or existing immediately before 1st April 1974, by or against the former highway authority in their capacity as highway authority for the highway or proposed highway, or otherwise in respect of any property or liability referred to in this Article, shall not be prejudiced or affected by reason of the coming into operation on 1st April 1974 of section 29 of the Transport (London) Act 1969 or by reason of the transfer of that property or liability by virtue of this Order, and may be continued, prosecuted and enforced on and after that date by or against the Greater London Council.

(a) 1966 c. 42. **(b)** 1967 c. 76.

(5) This Article has effect subject to—

(*a*) the provisions of any agreement between the former highway authority and the Greater London Council pursuant to section 17(4) of the London Government Act 1963 (which relates to agreements for the transfer of property and liabilities in connection with metropolitan roads),

(*b*) the provisions of any agreement between the former highway authority and the Greater London Council for the making of payments by either party in respect of any property, right or liability transferred to the Greater London Council by virtue of this Order, and

(*c*) the provisions of section 17(5) of the said Act of 1963 (which relates to drains belonging to metropolitan roads).

(6) In cases where the provisions of Article 5 below are applicable the provisions of this Article have effect subject to the provisions of that Article.

Apportionment of property, etc.

5.—(1) Where immediately before 1st April 1974 any land or other property is held by, or any right or liability is vested in or attaches to, the former highway authority for a highway or proposed highway to which this Order applies, partly for the purposes of their functions as highway authority in relation to that highway or proposed highway and partly for other purposes, then that land or other property, and that right or liability, shall be apportioned between the Greater London Council and the former highway authority in such manner as may be determined by agreement between the two authorities, or, in default of such agreement, by a person appointed by the Secretary of State, to be appropriate, having regard to the functions which become exercisable by the Greater London Council on 1st April 1974 in relation to the highway or proposed highway in question and to all the other circumstances of the case, and the part of the land or other property, or of the right or liability, apportioned to the Greater London Council shall by virtue of this Order be transferred to and vest in or attach to that Council on 1st April 1974 or on the date of the apportionment (if later).

(2) Where under paragraph (1) above any land or other property, or any right or liability, vests in or attaches to the Greater London Council, then—

(*a*) in so far as any liability attaches to the former highway authority in respect of that land or other property or that right, that liability shall by virtue of this Order be transferred to and attach to the Greater London Council,

(*b*) any contracts, deeds, bonds, agreements and other instruments subsisting in favour of or against the former highway authority, so far as relating to that land or other property, or that right or liability, shall be of full force and effect in favour of or against the Greater London Council, and

(*c*) any action or proceeding, or any cause of action or proceeding, pending or existing by or against the former highway authority, so far as relating to that land or other property, or that right or liability, shall not be prejudiced or affected by reason of the transfer and may be continued, prosecuted and enforced by or against the Greater London Council.

(3) Paragraph (5) of Article 4 above shall apply in relation to this Article as it applies in relation to that Article.

Procedures begun but not completed before 1st April 1974

6. Where under any enactment procedural steps have been taken before 1st April 1974 by the former highway authority in connection with the making, confirmation or approval of an order or scheme proposed to be made, or made, by them in their capacity as highway authority for a highway or proposed highway to which this Order applies, but all the procedural steps required in connection with that order or scheme have not been completed before that date, then the remaining steps required to be taken by the highway authority in connection with that order or scheme may be taken on or after that date by the Greater London Council.

Division of instruments affecting highways

7. Where an instrument made, submitted or published in draft before 1st April 1974 by the former highway authority for a highway or proposed highway to which this Order applies makes provision as respects such highway or proposed highway and also as respects one or more other highways or proposed highways in the area of that authority, so that, if such provision had been made on or after that date as respects both or all of those highways or proposed highways, separate instruments made, submitted or published in draft by the Greater London Council and by that authority would have been required, then—

(*a*) the instrument made, submitted or published in draft before 1st April 1974 by the former highway authority shall have effect on and after that date as two separate instruments, one relating to the highway or proposed highway to which this Order applies and containing references to the Greater London Council and the other relating to the other highways or proposed highways and containing references to the former highway authority, and

(*b*) if the instrument is an order or scheme in relation to which some, but not all, of the necessary procedural steps have been taken before that date—

(i) any notice given or published and other document made or issued in connection with the order or scheme before that date shall similarly have effect on and after that date as two notices or documents, one containing references to the Greater London Council and the other references to the former highway authority,

(ii) any remaining procedural steps required to be taken by the highway authority on and after that date may be carried out separately by the Greater London Council and the former highway authority, and,

(iii) the orders and schemes as made, confirmed or approved shall (so far as practicable) reflect the division into separate instruments.

General provision for adapting documents

8.—(1) Where under the provisions of any enactment or otherwise, at any time before 1st April 1974, any act has been done by, any notice or payment has been given or made to, or any right or duty has been conferred or imposed on the former highway authority in relation to a highway or proposed highway to

which this Order applies, in their capacity as the highway authority therefor, then, on and after that date, that act shall be deemed to have been done by, that notice or payment shall be deemed to have been given or made to, and that right or duty shall be deemed to have been conferred or imposed on, the Greater London Council, and accordingly any document comprising or relating to the act, notice, payment, right or duty shall, subject to Article 9 below, have effect on and after 1st April 1974, as if for any reference therein to the former highway authority there were substituted a reference to the Greater London Council.

(2) In a case where the circumstances mentioned in Article 7 of this Order occur the provisions of this Article shall have effect subject to the provisions of that Article.

(3) In this Article, except where the context otherwise requires—

(*a*) reference to any act done by a highway authority shall include a reference to any scheme, order, regulation, byelaw, agreement, requirement, application, apportionment or demand for payment made, resolution passed, charge conferred, authorisation granted, notice, direction, consent, approval, licence, permit or certificate given, building line or improvement line prescribed, or other thing done by that authority;

(*b*) reference to any notice given to a highway authority shall include a reference to any direction, consent or approval given to that authority;

(*c*) reference to any right or duty conferred or imposed upon a highway authority shall include a reference to an obligation assumed by or a requirement made upon or a deposit or lodgement made with that authority, a transfer of a highway to that authority and a provision for that authority to become the highway authority for a highway.

Amendment of orders and schemes

9. In a case where Article 8 above has effect in relation to an order or scheme which has been or which requires to be confirmed or approved by a Minister of the Crown, that Minister may amend the order or scheme in question by substituting, to the extent which may be appropriate, the Greater London Council for the former highway authority, and thereafter the order or scheme shall have effect, or shall be considered and, if confirmed or approved, have effect, accordingly.

Anthony Crosland,
15th March 1974. Secretary of State for the Environment.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order makes transitional and other provisions consequential on the coming into operation on 1st April 1974 of subsections (1) to (3), (5) and (6) of section 29 of the Transport (London) Act 1969 by virtue of which all highways and proposed highways in Greater London which are classified as principal roads become metropolitan roads on that date.

Article 3 defines the highways and proposed highways to which the Order applies, Article 4 transfers to the Greater London Council on 1st April 1974 the property, rights and liabilities in, or associated with, those highways and proposed highways and Article 5 deals with cases where property, rights and liabilities are held or borne partly for purposes connected with any of these highways or proposed highways and partly for other purposes.

Article 6 makes provision for procedures begun but not completed before 1st April 1974, Article 7 provides for the division of instruments and Article 8 contains general provisions for adapting documents which relate to any of the highways or proposed highways to which the Order applies. Article 9 provides for the amendment of orders or schemes relating to any such highways or proposed highways.

SI 1974/449
ISBN 0-11-040449-1

