STATUTORY INSTRUMENTS

1974 No. 533

LOCAL GOVERNMENT, ENGLAND AND WALES

The Transfer of Police Civilian Staff and Probation Staff Order 1974

Made - - -	*22nd March* 1974
Laid before Parliament	*28th March* 1974
Coming into Operation	*29th March* 1974

In exercise of the powers conferred on me by sections 254 and 255 of the Local Government Act 1972**(a)**, I hereby make the following Order:—

1.—(1) This Order may be cited as the Transfer of Police Civilian Staff and Probation Staff Order 1974 and shall come into operation on 29th March 1974.

(2) This Order shall not extend to Greater London.

2.—(1) In this Order, except where the context otherwise requires, the following expressions have the following meanings respectively, that is to say:—

"Appeals Memorandum" means the Memorandum on Staff Appeals enclosed with Circular LGSC 15/73 (Local Government Staff Commission for England) or, as the case may be, LGSC(W) 12/73 (Local Government Staff Commission for Wales), both dated 13th December 1973;

"existing" in relation to any authority means that authority as it existed on 1st January 1973;

"new" in relation to any authority means that authority as established on 1st April 1974;

"officer" in relation to any authority includes the holder of any office or employment under that authority, including a traffic warden and a school crossing patrol.

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

3. In the case of an officer transferred by this Order who is not in the whole-time employment of an authority immediately before 1st April 1974 the transfer effected by this Order in its application to the authority is limited to the extent of his employment by that authority.

(a) 1972 c.70. **(b)** 1889 c.63.

4.—(1) Every traffic warden, school crossing patrol and other officer employed by an existing police authority, and every officer employed by the council of an existing county or county borough wholly or mainly for police purposes (excluding a school crossing patrol) who is employed by such authority immediately before 1st April 1974 shall, on 1st April 1974, be transferred to the employment of the new police authority for the area in which is situate the premises in which he is wholly or mainly employed or from which he wholly or mainly operates.

(2) Nothing in this Article shall apply to a person—

(*a*) who will, by virtue of an agreement entered into between him and any authority before 1st April 1974, enter into the employment of that authority on 1st April 1974, or

(*b*) who is transferred by a scheme made under the Local Government (Staff Transfer Schemes) Order 1973**(a)**, as amended **(b)**, on or before 1st April 1974, or

(*c*) as respects any employment which, otherwise than by virtue of the abolition of authorities effected by the Local Government Act 1972 is to be terminated on 31st March 1974.

5.—(1) Every probation officer employed and every other officer employed by an existing probation and after-care committee to assist probation officers in the performance of their duties who is employed by such committee immediately before 1st April 1974 shall on 1st April 1974 be transferred to the employment of the probation and after-care committee for the area in which is situate the premises in which he is wholly or mainly employed or from which he wholly or mainly operates.

(2) Nothing in this Article shall apply to a person—

(*a*) who will, by virtue of any agreement entered into between him and a probation and after-care committee or other authority before 1st April 1974, enter into the employment of that committee or authority on 1st April 1974, or

(*b*) as respects any employment which, otherwise than by virtue of the abolition of authorities effected by the Local Government Act 1972 is to be terminated on 31st March 1974.

6.—(1) Where on 31st March 1974 any officer has not taken up the duties of his employment, he shall be deemed, in the application of Articles 4 and 5 above, to be employed in, or to be operating from, the premises in which he would be employed or from which he would be operating if he had taken up such duties.

(2) Where any officer is on 31st March 1974 absent from his normal duties for the purpose of undergoing training, Articles 4 and 5 shall apply—

(*a*) 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-

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(a) S.I. 1973/1847 (1973 III p. 6377). **(b)** S.I. 1974/147 (1974 I, p. 482).

ment which he occupied prior to the commencement of the training, as if he was, immediately before 1st April 1974, occupying such different place, situation or employment;

(*b*) otherwise as if he was, immediately before 1st April 1974, occupying the place, situation or employment which he occupied immediately prior to the commencement of such training.

(3) Where any officer is, on 31st March 1974, absent from his normal duties otherwise than for the purpose of undergoing training, he shall be deemed, in the application of Articles 4 and 5 to be discharging such duties, and to be discharging them in, or from, the premises in, or from, which he normally discharges them.

7.—(1) Any question by any officer whether he is or is not employed in any manner specified in Article 4 or 5 above shall be determined in accordance with—

(*a*) except in relation to persons transferred by Article 5, the arrangements set out in the Appeals Memorandum;

(*b*) in relation to such persons, the arrangements made by the Secretary of State.

(2) An existing police authority and the council of any existing county or county borough shall ensure that every officer transferred by Article 4 of this Order is informed as to the provisions of the Appeals Memorandum which are applicable.

8. Appeals may be made by officers and shall be determined in accordance with—

(*a*) except in relation to persons transferred by Article 5 above, the arrangements set out in the Appeals Memorandum,

(*b*) in relation to such persons, the arrangements made by the Secretary of State.

9.—(1) Every officer transferred under Article 4 or 5 above to the employment of any authority shall, so long as he continues in that employment by virtue of the transfer and until he is served with a statement in writing referring to this Order and specifying new terms and conditions of employment, enjoy terms and conditions of employment not less favourable than those which he enjoyed immediately before 1st April 1974.

(2) In the case of an officer who has appealed on grounds of hardship in accordance with the arrangements for appeal, a statement of new terms and conditions of employment shall not be served—

(*a*) if the appeal is allowed, until an alternative transfer or employment has been arranged, or, if no alternative transfer or employment is arranged, until the expiration of three months from the date of the decision of the appellate authority or 30th September 1974, whichever is the later,

(*b*) in any other case, until the date of the decision.

(3) A statement of new terms and conditions of employment shall be served on every officer transferred by this Order before 1st April 1975, and subject to paragraph (2) may be served before 1st April 1974.

(4) If after service of a statement of new terms and conditions of employment upon him an officer appeals on grounds of hardship as aforesaid, the statement shall cease to have effect, paragraph (1) above shall have effect as if the statement had not been served, and a new statement shall be served only in accordance with paragraph 2 above.

(5) The new terms and conditions of employment shall be such that—

(*a*) so long as the officer is engaged in duties reasonably comparable to those in which he was engaged immediately before 1st April 1974, the scale of his salary or remuneration is not less favourable than that which he enjoyed immediately before 1st April 1974; and

(*b*) the other terms and conditions of his employment are not less favourable than those which he enjoyed immediately before 1st April 1974.

(6) Where between 1st April 1974 and the service of the statement of new terms and conditions of employment upon any officer the scale of the salary or remuneration which he enjoyed immediately before 1st April 1974 is improved, paragraph (5)(*a*) above shall have effect as if the scale as improved had been so enjoyed.

(7) Where the new terms and conditions of employment involve any diminution of the scale of the salary or remuneration of an officer, they shall not come into effect until the date specified in the statement of the new terms and conditions, being a date not earlier than the expiration of three months from the date of service of that statement.

(8) Any question whether the duties of an officer are reasonably comparable within the meaning of paragraph (5) above shall be determined in accordance with—

(*a*) except in the case of a person transferred by Article 5, the arrangements set out in the Appeals Memorandum;

(*b*) in the case of such a person, the arrangements made by the Secretary of State.

(9) An officer may appeal in respect of new terms and conditions of employment in accordance with—

(*a*) except in the case of a person transferred by Article 5, the arrangements set out in the Appeals Memorandum;

(*b*) in the case of such a person, the arrangements made by the Secretary of State.

(10) Any statement of new terms and conditions of employment shall contain a statement of the provisions of paragraphs (8) and (9) above.

(11) In this Article, "terms and conditions of employment" include any restriction arising under any Act or any instrument made under any Act on the termination of the employment of any officer.

(12) A written statement given in accordance with section 4(1) of the Contracts of Employment Act 1972**(a)** shall not be regarded as a statement of new terms

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(a) 1972 c.53.

and conditions of employment for the purposes of this Article unless the statement so indicates.

10.—(1) Any officer transferred by this Order to the employment of any authority may, before 1st January 1975 or the expiration of two months from the service upon him of the statement of new terms and conditions of employment under Article 9 above, whichever is the later, be transferred by the said authority to the employment of any other authority, with the consent of the latter authority and of the officer; and Article 9 shall thereupon apply to such officer as it applies to other officers so transferred.

(2) The council of a county which is not a constituent authority of a combined police authority may, by a resolution passed before 1st January 1975, transfer to its own employment every officer other than a traffic warden who was transferred by Article 4 above to the employment of the police authority for that county and who remains in the employment of that police authority; and Article 9 shall thereupon apply to such officer as it applies to other officers transferred by Article 4.

11. Where an officer transferred by this Order is undergoing training under arrangements which have not been discharged before 1st April 1974, those arrangements shall continue to apply with the substitution, for the authority in whose employment he was immediately before the commencement of the training, of the authority to whose employment he has been transferred by this Order.

12. Any dispensation from the requirement of any regulation granted to the authority from whom any officer is transferred by this Order shall have effect, in relation to such officer, as if it had been granted to the authority to whose employment he has been transferred by this Order.

13. Any extension of service under section 7(1) of the Local Government Superannuation Act 1937**(a)** effective on 1st April 1974 in relation to an officer transferred by this Order shall continue to have effect as if it had been made by the authority to whose employment he is transferred by this Order.

14. Any additional travelling expenses and any removal or incidental expenses reasonably incurred by any officer in consequence of his transfer by this Order shall be reimbursed by the authority to whose employment he is transferred by this Order.

15.—(1) This Article applies to contracts of employment resulting from the operation of Article 4 or 5 above.

(2) Notice to terminate any contract of employment to which this Article applies may, with his consent, be given to any officer before 1st April 1974 by the authority to whose authority he would be transferred on that date.

(3) A notice to terminate any contract of employment to which this Article applies shall, unless the officer to whom it is given otherwise agrees, not come into operation earlier than the expiration of three months from the service thereof.

(a) 1937 c. 68.

16. Where, in relation to any officer—

(*a*) on the scale of salary or remuneration applicable to him immediately before 1st April 1974 he would have become entitled to an increment on that date; and

(*b*) by reason of any appointment effective as from 1st April 1974 made by the authority to whom he is transferred, any other scale of salary or remuneration becomes applicable to him as from that date,

any term of his employment as to his commencing point on such other scale shall be applicable as if his employment before, and on and after, the said date were continuous employment under one authority.

Roy Jenkins,
One of Her Majesty's Principal
Secretaries of State.

Home Office,
Whitehall.
22nd March 1974.

EXPLANATORY NOTE

(*This Note is not part of the Order.*)

This Order makes provision for the transfer of traffic wardens, school crossing patrols and police civilian staff employed by police authorities, police civilian staff employed by an existing county or county borough council and probation staff to new police authorities or, as the case may be, new probation and after-care committees, and for the protection of the interests of those persons.

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